

MONTANA LEGISLATIVE HISTORY

Chapter 642 19 89

Bill H _____ S 431 Original bill & history ✓c

H. Committee on Judiciary

Hearing Date(s) Mar 23 ✓c

Apr 06 ✓c

_____ c

_____ c

Date Out Apr 06 ✓c

S. Committee on Judiciary

Hearing Date(s) Feb 17 ✓c

Feb 28 ✓c

Mar 01 ✓c

_____ c

Mar 02 ✓c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

Free Conference Committee

Apr 18

Apr 19

SENATE FINAL STATUS

4/17 SIGNED BY SPEAKER
 4/18 TRANSMITTED TO GOVERNOR
 4/20 SIGNED BY GOVERNOR
 CHAPTER NUMBER 583 EFFECTIVE DATE: 10/01/89

SB 430 INTRODUCED BY THAYER, ET AL.
 REDUCE WORKERS' COMPENSATION BENEFITS

2/15 INTRODUCED
 2/15 REFERRED TO LABOR & EMPLOYMENT RELATIONS
 2/16 HEARING
 2/16 COMMITTEE REPORT--BILL PASSED
 2/16 FISCAL NOTE REQUESTED
 2/18 2ND READING PASSED 29 21
 2/20 FISCAL NOTE RECEIVED
 2/20 FISCAL NOTE PRINTED
 2/21 3RD READING PASSED 27 23

TRANSMITTED TO HOUSE
 2/28 REFERRED TO LABOR & EMPLOYMENT RELATIONS
 3/21 HEARING
 3/22 TABLED IN COMMITTEE

SB 431 INTRODUCED BY GAGE, ET AL.
 REQUIRE DEPARTMENT OF JUSTICE TO LICENSE, REGULATE
 PUBLIC GAMBLING
 BY REQUEST OF DEPARTMENT OF JUSTICE

2/15 INTRODUCED
 2/15 REFERRED TO JUDICIARY
 2/16 FISCAL NOTE REQUESTED
 2/17 HEARING
 2/17 COMMITTEE REPORT--BILL PASSED AS AMENDED
 2/20 REREFERRED TO JUDICIARY
 2/27 FISCAL NOTE RECEIVED
 2/28 FISCAL NOTE PRINTED
 2/28 HEARING
 3/02 COMMITTEE REPORT--BILL PASSED AS AMENDED
 3/06 2ND READING PASSED AS AMENDED 36 14
 3/08 3RD READING PASSED 33 16

TRANSMITTED TO HOUSE
 3/13 REFERRED TO JUDICIARY
 3/23 HEARING
 4/06 HEARING
 4/10 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
 4/12 2ND READING CONCURRED AS AMENDED 90 9
 4/13 3RD READING CONCURRED 92 8

RETURNED TO SENATE WITH AMENDMENTS
 4/15 2ND READING AMENDMENTS NOT CONCURRED 47 0
 4/17 FREE CONFERENCE COMMITTEE APPOINTED
 4/21 FREE CONFERENCE COMMITTEE REPORT NO. 1
 4/21 2ND READING FREE CONFERENCE COMMITTEE
 REPORT NO. 1 ADOPTED 40 8
 4/21 3RD READING FREE CONFERENCE COMMITTEE
 REPORT NO. 1 ADOPTED 43 7

HOUSE
 4/18 FREE CONFERENCE COMMITTEE APPOINTED

SENATE FINAL STATUS

4/21	FREE CONFERENCE COMMITTEE REPORT NO. 1	
4/21	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	78 19
4/21	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	85 13
4/27	SIGNED BY PRESIDENT	
4/28	SIGNED BY SPEAKER	
5/01	TRANSMITTED TO GOVERNOR CHAPTER NUMBER 642 EFFECTIVE DATE: 05/05/89 (S7(2), 63-67, 69, 72, 73, 75) EFFECTIVE DATE: 07/01/89 (S70) EFFECTIVE DATE: 10/01/89 FOR REMAINING SECTIONS	

SB 432 INTRODUCED BY BENGTON MAKE TECHNICAL CHANGES TO IRRIGATION DISTRICT LAWS

2/15	INTRODUCED	
2/15	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.	
2/15	HEARING	
2/16	COMMITTEE REPORT--BILL PASSED AS AMENDED	
2/18	2ND READING PASSED	46 0
2/21	3RD READING PASSED	50 0
	TRANSMITTED TO HOUSE	
2/28	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.	
3/06	HEARING	
3/22	COMMITTEE REPORT--BILL CONCURRED AS AMENDED	
3/28	2ND READING CONCURRED	88 10
3/29	3RD READING CONCURRED	87 10
	RETURNED TO SENATE WITH AMENDMENTS	
4/04	2ND READING AMENDMENTS CONCURRED	49 0
4/06	3RD READING AMENDMENTS CONCURRED	49 0
4/11	SIGNED BY PRESIDENT	
4/17	SIGNED BY SPEAKER	
4/18	TRANSMITTED TO GOVERNOR	
4/20	SIGNED BY GOVERNOR CHAPTER NUMBER 584 EFFECTIVE DATE: 10/01/89	

SB 433 INTRODUCED BY WILLIAMS, B. AUTHORIZE STATE DISTRICT COURTS TO EXERCISE PERSONAL JURISDICTION OVER NONRESIDENT PARENT IN A CHILD SUPPORT ACTION WHEN NONRESIDENT PARENT HAS SIGNIFICANT TIES TO STATE

2/15	INTRODUCED	
2/15	REFERRED TO JUDICIARY	
2/17	HEARING	
2/17	COMMITTEE REPORT--BILL PASSED	
2/20	2ND READING PASSED	50 0
2/21	3RD READING PASSED	50 0
	TRANSMITTED TO HOUSE	
2/28	REFERRED TO JUDICIARY	
3/22	HEARING	
3/22	COMMITTEE REPORT--BILL CONCURRED	

SENATE BILL NO. 431

INTRODUCED BY GAGE, HARPER, B. BROWN, MAZUREK,
ADDY, STRIZICH, MERCER, CRIPPEN, HANNAH,
HARP, VAN VALKENBURG

BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE SENATE

FEbruary 15, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEbruary 17, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
	STATEMENT OF INTENT ADOPTED.
FEbruary 20, 1989	PRINTING REPORT.
	SECOND READING, PASS CONSIDERATION.
	ON MOTION, REREFERRED TO COMMITTEE ON JUDICIARY.
MARCH 2, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 3, 1989	PRINTING REPORT.
MARCH 6, 1989	SECOND READING, DO PASS AS AMENDED.
MARCH 7, 1989	ENGROSSING REPORT.
MARCH 8, 1989	THIRD READING, PASSED. AYES, 33; NOES, 16.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 13, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.

APRIL 10, 1989

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 11, 1989

PASSED CONSIDERATION FOR THE DAY.

APRIL 12, 1989

SECOND READING, CONCURRED IN AS
AMENDED.

ON MOTION, RULES SUSPENDED TO ALLOW
BILL PLACED ON THIRD READING THIS DAY.

THIRD READING, CONCURRED IN.
AYES, 92; NOES, 8.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 15, 1989

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

APRIL 17, 1989

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 18, 1989

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 21, 1989

FREE CONFERENCE COMMITTEE REPORTED.

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 21, 1989

FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 21, 1989

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

SENATE BILL NO. 431

INTRODUCED BY

BY REQUEST OF THE DEPARTMENT OF JUSTICE

MERCER

HARP

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE PUBLIC GAMBLING LAWS OF MONTANA; PROVIDING FOR LICENSURE AND REGULATION OF GAMBLING ACTIVITIES BY THE DEPARTMENT OF JUSTICE; PROVIDING FOR STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 23-5-101 THROUGH 23-5-104, 23-5-108, 23-5-123, 23-5-131, 23-5-135, 23-5-311 THROUGH 23-5-313, 23-5-321, 23-5-331, 23-5-412 THROUGH 23-5-414, 23-5-431, 23-5-503, 23-5-509, 23-5-602, 23-5-603, 23-5-607, 23-5-608, 23-5-610 THROUGH 23-5-613, 23-5-616, 23-5-625, 23-5-631, 23-5-1101, AND 23-5-1105, MCA; AND REPEALING SECTIONS 23-5-105 THROUGH 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124 THROUGH 23-5-127, 23-5-132 THROUGH 23-5-134, 23-5-141 THROUGH 23-5-144, 23-5-201 THROUGH 23-5-211, 23-5-301 THROUGH 23-5-303, 23-5-314 THROUGH 23-5-316, 23-5-322, 23-5-323, 23-5-332, 23-5-401 THROUGH 23-5-403, 23-5-411, 23-5-415 THROUGH 23-5-418, 23-5-421 THROUGH 23-5-423, 23-5-504 THROUGH 23-5-508, 23-5-510, 23-5-511, 23-5-601, 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23-5-618, 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103, AND 23-5-1104, MCA."

STATEMENT OF INTENT

This bill requires a statement of intent because [section 7] authorizes the department of justice to adopt administrative rules to implement [this act]. [This act] is intended to provide uniform statewide regulation of gambling in Montana under the supervision of the attorney general.

It is the intent of the legislature that the department of justice adopt necessary rules to implement uniform statewide regulation of gambling in Montana consistent with the purposes and policies set forth in [section 1] of this bill.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Public policy of state

concerning gambling. (1) The legislature finds that for the purpose of ensuring the proper gambling environment in this state it is necessary and desirable to adopt a public policy regarding public gambling activities in Montana. The legislature therefore declares it is necessary to:

(a) create and maintain a uniform regulatory climate that assures players, owners, tourists, citizens, and others that the gambling industry in this state is fair and is not influenced by corrupt persons, organizations, or practices;

(b) protect legal public gambling activities from unscrupulous players and vendors and detrimental influences;

(c) protect the public from unscrupulous proprietors and operators of gambling establishments, games, and devices;

(d) protect the state and local governments from those who would conduct illegal gambling activities that deprive those governments of their tax revenues;

(e) protect the health, safety, and welfare of all citizens of this state, including those who do not gamble, by regulating gambling activities; and

(f) promote and fund programs necessary to provide assistance to those who are adversely affected by legalized gambling, including compulsive gamblers and their families.

(2) The legislature adopts the policy that an applicant for a license or permit or other department approval under parts 1 through 6 of this chapter does not have a right to the issuance of a license or permit or the granting of the approval sought. The issuance of a license or permit issued or other department approval granted pursuant to the provisions of parts 1 through 6 of this chapter is a revocable privilege. A holder does not acquire a vested right in the license or permit issued or other department approval granted. A license or permit issued under parts 1 through 6 of this chapter may not be sold, assigned, leased, or transferred.

(3) Revenue to fund the expense of administration and

control of gambling as regulated by parts 1 through 6 of this chapter must be derived solely from fees, taxes, and penalties on gambling activities, except the gambling activities of the Montana state lottery and the parimutuel industry.

NEW SECTION. **Section 2.** General application. This chapter applies only to public gambling activities within the state of Montana.

Section 3. Section 23-5-101, MCA, is amended to read:

"23-5-101. Definitions. Unless the context requires otherwise, the following definitions apply to parts 1 through 6 of this chapter:

(1) A slot machine is defined as a machine operated by inserting a coin, token, chip, trade check, or paper currency therein by the player and from the play of which he obtains or may obtain money, checks, chips, tokens, or paper currency redeemable in money. Merchandise vending machines where the element of chance does not enter into their operation are not within the provisions of this part. "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 6 of this chapter.

(2) "Application" means a written request for a license or permit issued by the department. The department shall adopt rules describing the forms and information

1 required for issuance of a license.

2 (3) "Authorized equipment" means, with respect to live
3 keno or bingo, the receptacle and numbered objects drawn
4 from it, the master board upon which such objects are placed
5 as drawn, the cards or sheets bearing numbers or other
6 designations to be covered and the objects used to cover
7 them, the boards or signs, however operated, used to
8 announce or display the numbers or designations as they are
9 drawn, public address system, and all other articles
10 essential to the operation, conduct, and playing of live
11 keno or bingo.

12 (4) "Bingo" means a game of chance played for prizes
13 with a card bearing a printed design of 5 columns of 5
14 squares each, 25 squares in all. The letters B-I-N-G-O must
15 appear above the design, with each letter above one of the
16 columns. No more than 75 numbers may be used. One number
17 must appear in each square, except for the center square
18 which is considered a free play. Numbers and letters are
19 drawn from a receptacle and announced by a bingo caller
20 using authorized equipment, and the game is won by the
21 person who first covers a previously designated arrangement
22 of numbers on the bingo card.

23 (5) "Bingo caller" means a person licensed by the
24 department to work as a live bingo caller who, using
25 authorized equipment, announces the order of the objects

1 drawn in live bingo.

2 (6) "Card game table" or "table" means a live card
3 game table authorized by permit and made available to the
4 public on the premises of a licensed gambling operator.

5 (7) "Dealer" means a person with a dealer's license
6 issued under part 3 of this chapter.

7 (8) "Department" means the department of justice.

8 (9) "Distributor" means a person who:

9 (a) purchases or obtains from another person equipment
10 of any kind for use in gambling activities; and

11 (b) sells, leases, or otherwise furnishes the
12 equipment to another person for use in public.

13 (10) "Gambling" or "gambling activity" means risking
14 money, credit, deposit, check, property, or any other thing
15 of value for a gain that is contingent in whole or in part
16 upon lot, chance, or the operation of a gambling device or
17 gambling enterprise.

18 (11) "Gambling device" means a mechanical,
19 electromechanical, or electronic device, machine, slot
20 machine, instrument, apparatus, contrivance, scheme, or
21 system.

22 (12) "Gambling enterprise" means an activity, scheme,
23 or agreement or an attempted activity, scheme, or agreement
24 to provide gambling or a gambling device to the public.

25 (13) "Illegal gambling device" means a gambling device

1 include means both natural and artificial persons and all
 2 partnerships, corporations, associations, clubs, fraternal
 3 orders, and societies, including religious, fraternal, and
 4 charitable organizations.

5 (25) "Premises" means the physical building or property
 6 within or upon which a licensed gambling activity occurs, as
 7 stated on an operator's license application and approved by
 8 the department.

9 (26) "Public" means:

10 (a) a place, building, or conveyance to which the
 11 public has access or may be permitted to have access; or

12 (b) a place of public resort, including but not
 13 limited to a facility owned, managed, or operated by a
 14 partnership, corporation, association, club, fraternal
 15 order, or society, including a religious, fraternal, or
 16 charitable organization.

17 (27) "Raffle" means a gift enterprise in which each
 18 participant buys a chance or chances to win a prize.

19 (28) "Slot machine" means a mechanical, electrical,
 20 electronic, or other gambling device, contrivance, or
 21 machine that, upon insertion of a coin, currency, token,
 22 credit card, or similar object or upon payment of any
 23 valuable consideration, is available to play or operate, the
 24 play or operation of which, whether by reason of the skill
 25 of the operator or application of the element of chance, or

1 both, may deliver or entitle the person playing or operating
 2 the gambling device to receive cash, premiums, merchandise,
 3 tokens, or anything of value, whether the payoff is made
 4 automatically from the machine or in any other manner. This
 5 definition does not apply to video gambling machines
 6 authorized under part 6 of this chapter.

7 (29) "Video gambling machine" is a gambling device
 8 specifically authorized by part 6 of this chapter and the
 9 rules of the department."

10 **NEW SECTION. Section 4.** Authority of local
 11 governments to regulate gambling. (1) A local government may
 12 not license, regulate, or otherwise limit a form of gambling
 13 authorized by parts 1 through 6 of this chapter unless
 14 specifically authorized by statute.

15 (2) An incorporated city or town may enact an
 16 ordinance or resolution defining certain areas within its
 17 incorporated limits in which gambling is prohibited.

18 (3) A county may enact a resolution defining certain
 19 areas in the county, not within an incorporated city or
 20 town, in which gambling is prohibited.

21 (4) A county or incorporated city or town may not
 22 restrict the number of licenses that the department may
 23 issue.

24 **NEW SECTION. Section 5.** Department as criminal
 25 justice agency. The department is a criminal justice agency.

1 not specifically authorized by statute or by the rules of
2 the department.

3 (14) "Illegal gambling enterprise" means a gambling
4 enterprise that violates a statute or a rule of the
5 department.

6 (15) "Keno" means a game of chance in which prizes are
7 awarded using a card with 8 horizontal rows and 10 columns
8 on which a player may pick up to 10 numbers. A keno caller,
9 using authorized equipment, shall select at random 20
10 numbers out of numbers between 1 and 80, inclusive.

11 (16) "Keno caller" means a person licensed by the
12 department to work as a live keno caller who, using
13 authorized equipment, announces the order of the numbers
14 drawn in live keno.

15 (17) "License" means an operator's, dealer's, caller's
16 or manufacturer-distributor's license issued to a person by
17 the department.

18 (18) "Licensee" means a person who has received a
19 license from the department.

20 (19) "Live card game", "card game", or "game" means a
21 card game that is played in public between persons on the
22 premises of a licensed gambling operator.

23 (20) "Lottery" or "gift enterprise" means a scheme, by
24 whatever name known, for the disposal or distribution of
25 property by chance among persons who have paid or promised

1 to pay valuable consideration for the chance of obtaining
2 the property or a portion of it or for a share or interest
3 in the property upon an agreement, understanding, or
4 expectation that it is to be distributed or disposed of by
5 lot or chance. However, "gift enterprise" does not mean:

6 (a) lotteries authorized under part 10 of this
7 chapter; or

8 (b) cash or merchandise attendance prizes or premiums
9 that the county fair commissioners of agricultural fairs and
10 rodeo associations may give away at public drawings at fairs
11 and rodeos.

12 (21) "Manufacturer" means a person who assembles from
13 raw materials or subparts a completed piece of equipment or
14 pieces of equipment of any kind to be used as a gambling
15 device.

16 (22) "Operator" means a person who purchases, receives,
17 or acquires, by lease or otherwise, and operates or controls
18 for use in public, a gambling device or gambling enterprise
19 authorized under parts 1 through 6 of this chapter.

20 (23) "Permit" means approval from the department to
21 make available for public play a gambling device or gambling
22 enterprise approved by the department pursuant to parts 1
23 through 6 of this chapter.

24 (24) In--addition--to--their--ordinary--meaning, the
25 words--"person" "Person" or "persons"--as--used--in--this--part,

Designated agents of the department are granted peace officer status to investigate, regulate, and control all legal and illegal gambling activities in this state regulated by parts 1 through 6 of this chapter and the rules of the department.

NEW SECTION. Section 6. Department employees -- activities prohibited. An employee of the department directly involved with the prosecution, investigation, regulation, or licensing of gambling may not:

(1) serve as an officer or manager of a corporation or organization that conducts a gambling activity;

(2) receive or share in, directly or indirectly, any profit of a gambling activity regulated by the department;

(3) have a beneficial or pecuniary interest in a contract for the manufacture or sale of a gambling device, the conduct of a gambling activity, or the provision of independent consultant services in connection with a gambling activity.

NEW SECTION. Section 7. Powers and duties of department -- licensing. (1) The department shall administer the provisions of parts 1 through 6 of this chapter.

(2) The department shall adopt rules to administer and implement parts 1 through 6 of this chapter.

(3) The department shall provide licensing procedures, prescribe necessary application forms, and grant or deny

license applications.

(4) The department shall prescribe recordkeeping requirements for licensees, provide a procedure for inspection of records, provide a method for collection of taxes, and establish penalties for the delinquent reporting and payment of required taxes.

(5) The department may suspend, revoke, deny, or place a condition on a license issued under parts 1 through 6 of this chapter.

(6) The department may not make public or otherwise disclose information obtained in the tax reporting processes, except for general statistical reporting or studies.

NEW SECTION. Section 8. Injunction and other remedies. (1) If it appears to the department that a person has engaged in or is about to engage in an act or practice constituting a violation of a provision of parts 1 through 6 of this chapter or a rule or order of the department, it may:

(a) issue a temporary cease and desist order with reasonable notice and opportunity for hearing. Following a hearing or if the person to whom the notice is addressed does not request a hearing within 15 days after receipt of the notice, the department may issue a permanent cease and desist order that must remain in effect pending an appeal or

1 judicial review by the person aggrieved by a final order of
2 the department.

3 (b) bring, without the issuance of a cease and desist
4 order, an action in district court to enjoin the act or
5 practice. On a proper showing, the court may grant a
6 permanent or temporary injunction, a restraining order, or
7 other appropriate writ and appoint a receiver or conservator
8 for the defendant or the defendant's assets. The department
9 may not be required to post a bond.

10 (c) place a licensee on probation;

11 (d) suspend a license for a period not to exceed 180
12 days;

13 (e) revoke a license;

14 (f) deny renewal of a license upon its expiration;

15 (g) impose a civil penalty not to exceed \$10,000 for
16 each violation of a provision of parts 1 through 6 of this
17 chapter or a rule of the department, whether or not the
18 person is licensed by the department;

19 (h) impose a combination of the penalties provided in
20 subsections (1)(a) through (1)(g).

21 (2) A fine imposed by a district court or by the
22 department under this section must be collected by the
23 department and deposited in the special revenue account as
24 provided in 23-5-123.

25 (3) Imposition of a fine under this section is an

1 order from which an appeal may be taken pursuant to [section
2 12].

3 (4) If a person fails to pay a fine imposed under this
4 section, the fine is a lien on all of the assets and
5 property of the person in the state and may be recovered by
6 the department in a civil action.

7 (5) If a person fails to pay a fine imposed under this
8 section, he may not be licensed to operate a gambling device
9 or gambling enterprise in the state under parts 1 through 6
10 of this chapter.

11 **Section 9.** Section 23-5-123, MCA, is amended to read:

12 "23-5-123. Disposal of money confiscated by reason of
13 violation of gambling laws. ~~All money seized or taken by any~~
14 ~~peace officer and confiscated by order of any court, by~~
15 ~~reason of a violation of the gambling laws of the state of~~
16 ~~Montana, shall be deposited with the county treasurer of the~~
17 ~~county in which such seizure and confiscation was made and~~
18 ~~shall be credited to the poor fund of the county. All fines,~~
19 penalties, forfeitures, and confiscated money collected by
20 criminal, civil, or administrative process for a violation
21 of a provision of parts 1 through 6 of this chapter or a
22 rule of the department must be deposited in a special
23 revenue account for use by the department for:

24 (1) training law enforcement personnel in the
25 investigation of illegal gambling activity;

1 (2) training persons licensed under the authority of
2 the department; or

3 (3) funding programs designed to treat persons with
4 habitual gambling problems."

5 **NEW SECTION. Section 10. Qualifications** for
6 licensure. (1) A person whom the department determines is
7 qualified to receive a license under the provisions of this
8 chapter, except for the provisions of part 10, may be issued
9 a state gambling license.

10 (2) The applicant has the burden of proving his
11 qualification to receive a license.

12 (3) An application for a license may not be granted
13 unless the department is satisfied that the applicant is:

14 (a) a person of good character, honesty, and
15 integrity;

16 (b) a person whose prior activities, criminal record,
17 if any, reputation, habits, and associations do not:

18 (i) pose a threat to the public interest of the state
19 or to the effective regulation and control of gambling; or

20 (ii) create or enhance the dangers of illegal
21 practices, methods, and activities in the conduct of
22 gambling or in the carrying on of the business and financial
23 arrangements incidental to the conduct of gambling; and

24 (c) in all other respects qualified to be licensed
25 consistent with the declared gambling policy of the state.

1 (4) A license to operate a gambling activity may not
2 be issued unless the applicant has demonstrated to the
3 department that:

4 (a) the applicant has adequate business probity,
5 competence, and experience; and

6 (b) the proposed financing of the entire operation is:

7 (i) adequate for the nature of the proposed operation;
8 and

9 (ii) from a suitable source. A lender or other source
10 of money or credit that the department finds does not meet
11 the standards set forth in subsection (3) may be considered
12 unsuitable.

13 **NEW SECTION. Section 11. Operator of gambling**
14 **establishment -- license -- fee.** (1) It is a misdemeanor for
15 a person who is not licensed by the department as an
16 operator to make available to the public for play a gambling
17 device or gambling enterprise.

18 (2) An operator's license must include the following
19 information:

20 (a) a description of the premises upon which the
21 gambling will take place;

22 (b) the operator's name;

23 (c) a description of each gambling device or card game
24 table licensed to the operator by the department for play
25 upon the premises, including the type of game and license

1 number or decal number for each licensed game; and

2 (d) any other relevant information determined
3 necessary by the department.

4 (3) The operator's license must be issued annually
5 along with all other licenses for gambling devices or games
6 licensed to the operator.

7 (4) The operator's license must be updated each time a
8 gambling device or card game table license is newly issued
9 or the device or game is removed from the premises.

10 (5) The department may not charge a fee for the
11 issuance of an operator's license.

12 (6) The operator's license must be prominently
13 displayed upon the premises for which it is issued.

14 **NEW SECTION. Section 12.** Judicial review. (1) (a) A
15 person aggrieved by a final order of the department may
16 obtain a review of the order in district court by filing
17 with the court, within 30 days after entry of the final
18 order, a written petition requesting that the order be
19 modified or set aside in whole or in part.

20 (b) A copy of the petition must be served upon the
21 department at the same time. When the department receives
22 the copy of the petition, it shall certify and file in court
23 a copy of the filing, testimony, and other evidence upon
24 which the final order was entered by the department. When
25 these have been filed with the court, the court has

1 exclusive jurisdiction to affirm, modify, enforce, or set
2 aside the final order in whole or in part. A temporary cease
3 and desist order from the department must remain in effect
4 and cannot be set aside by the court until a hearing has
5 been held and a final order has been issued pursuant to
6 [section 8].

7 (2) (a) The review must be conducted by the district
8 court without a jury and must be confined to the record. In
9 a case of alleged irregularity in procedure before the
10 department not shown in the record, proof may be taken by
11 the court. The court, upon request, shall hear oral argument
12 and receive written briefs.

13 (b) The court may not substitute its judgment for that
14 of the department as to the weight of the evidence on
15 questions of fact. The court may affirm the decision of the
16 department or remand the case for further proceedings. The
17 court may reverse or modify the decision if substantial
18 rights of the appellant have been prejudiced because the
19 administrative findings, inferences, conclusions, or
20 decisions are:

21 (i) in violation of a constitutional or statutory
22 provision;

23 (ii) in excess of the statutory authority of the
24 department;

25 (iii) made upon unlawful procedure;

(iv) affected by other error of law;

(v) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record;

(vi) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or

(vii) inadequate because findings of fact, upon issues essential to the decision, were requested but not made.

(3) The commencement of proceedings under this section, unless specifically ordered by the court, may not operate as a stay of the department's final order.

Section 13. Section 23-5-131, MCA, is amended to read:

"23-5-131. Losses at gambling may be recovered in civil action. ~~If any person, by playing or betting at any of the games prohibited by this part, loses to another person any sum of money or thing of value and pays or delivers the same or any part thereof to any person connected with the operating or conducting of such game, either as owner, dealer, or operator, the person who so loses and pays or delivers may, at any time within 60 days next after the loss and payment or delivery, sue for and recover the money or thing of value so lost and paid or delivered or any part thereof from any person having any interest, direct or contingent, in the game as owner, backer, or otherwise, with costs of suit, by civil action before any court of competent~~

~~jurisdiction, together with exemplary damages which in no case shall be less than \$50 or more than \$500, and may join as defendants in said suit all persons having any interest, direct or contingent, in such game as backers, owners, or otherwise. A person, or his dependent or guardian, who, by playing or betting at an illegal gambling device or illegal gambling enterprise, loses money, property, or any other thing of value and pays and delivers it to another person connected with the operation or conduct of the illegal gambling device or illegal gambling enterprise, within 1 year following his loss, may:~~

(1) bring a civil action in a court of competent jurisdiction to recover the loss;

(2) recover the costs of the civil action and exemplary damages of no less than \$500 and no more than \$5,000; and

(3) join as a defendant any person having an interest in the illegal gambling device or illegal gambling enterprise."

Section 14. Section 23-5-135, MCA, is amended to read:

"23-5-135. Discharge of defendant. Upon discovery and repayment of the money or other thing, the person discovering and repaying the same with costs and such an amount of exemplary damages as may be agreed upon by the parties or fixed by the court, shall be acquitted and

~~discharged from any further or other forfeiture, punishment,~~
~~penalty, or prosecution he or they may have incurred for so~~
~~winning such money or thing discovered and repaid.~~ (1) A
 person against whom a civil action is brought as provided in
 23-5-131 may move to have the action against him dismissed
 if he has repaid to the person who suffered the loss or his
 dependent the gambling loss, the costs of bringing the civil
 action, and the exemplary damages agreed upon by the parties
 or assessed by the court.

(2) A civil action brought to recover gambling losses
 does not bar or interfere with another proceeding or action,
 whether criminal, civil, or administrative, that may be
 brought under the laws of the state.

(3) The clerk of the court shall notify the department
 of a civil action based on a violation of a provision of
 this chapter."

Section 15. Section 23-5-102, MCA, is amended to read:

"23-5-102. Gambling prohibited ---penalty. Except as
 otherwise---provided-by-law, a person who engages in gambling
 in any form with cards, dice, or other implements or devices
 of any kind wherein anything valuable may be wagered upon
 the---outcome---or---who---keeps---any---establishment,---place,
 equipment, or apparatus for such gambling or any agents or
 employees for such purpose is guilty of a misdemeanor and is
 punishable by a fine of not less than \$100 or more than

\$1,000 or imprisonment not less than 3 months or more than 1
 year or by both such fine and imprisonment specifically
 authorized by statute, all forms of public gambling,
 lotteries, and gift enterprises are prohibited."

NEW SECTION. Section 16. Counterfeiting or defacing
 documents -- penalty. (1) A person commits the offense of
 counterfeiting or defacing a document when he purposely or
 knowingly counterfeits, alters, or wrongfully displays a
 seal, decal, license, identification number or device, or
 other document issued by the department.

(2) A person convicted of the offense of
 counterfeiting or defacing a document is guilty of a felony
 and must be punished in accordance with [section 24].

Section 17. Section 23-5-108, MCA, is amended to read:

"23-5-108. Soliciting or persuading persons to visit
 play illegal gambling resorts device prohibited. Any person
 who persuades or solicits another to visit any room, tent,
 apartment, or place used or represented by the person
 soliciting or persuading to be a place used for the purpose
 of running any of the games prohibited by this part shall be
 punished by a fine of not less than \$100 or more than \$1,000
 or imprisonment not less than 3 months or more than 1 year
 or by both such fine and imprisonment in the county jail. A
 person who advertises for or solicits another person to play
 or engage in the use of an illegal gambling device is guilty

1 of a misdemeanor and is punishable under [section 23]."

2 NEW SECTION. Section 18. Obtaining anything of value
3 by fraud or operation of illegal gambling device or
4 enterprise. (1) A person who by gambling obtains money,
5 property, or anything of value that does not exceed \$300 in
6 value by misrepresentation, fraud, or the use of an illegal
7 gambling device or an illegal gambling enterprise is guilty
8 of a misdemeanor and is punishable as provided in [section
9 23].

10 (2) A person who by gambling obtains money, property,
11 or anything of value that exceeds \$300 in value by
12 misrepresentation, fraud, or the use of an illegal gambling
13 device or an illegal gambling enterprise is guilty of a
14 felony and is punishable as provided in [section 24].

15 NEW SECTION. Section 19. Gambling on cash basis. (1)
16 In every gambling activity the consideration paid for the
17 chance to play must be cash. A participant shall present the
18 money needed to play the game as the game is being played. A
19 check, credit card, note, I O U, or other evidence of
20 indebtedness may not be offered or accepted as part of the
21 price of participation in the gambling activity or as
22 payment of a debt incurred in the gambling activity.

23 (2) A person who violates this section is guilty of a
24 misdemeanor and must be punished in accordance with [section
25 23].

1 NEW SECTION. Section 20. Minors not to participate --
2 penalty. (1) A person under 18 years of age may not be
3 permitted to participate in a gambling activity.

4 (2) A person who violates this section is guilty of a
5 misdemeanor and must be punished in accordance with [section
6 23].

7 Section 21. Section 23-5-103, MCA, is amended to read:

8 "23-5-103. Possession of illegal gambling implements
9 device prohibited -- exception. Any (1) Except as provided
10 in [section 22] and subsection (2) of this section, it is a
11 misdemeanor punishable under [section 23] for a person who
12 has to have in his possession or under his control or who
13 permits to permit to be placed, maintained, or kept in any
14 room, space, enclosure, or building owned, leased, or
15 occupied by him or under his management or control any--faro
16 box,--faro--layout,--roulette--wheel,--roulette--table,--crap
17 table,--punchboard,--or any machine or apparatus of--the--kind
18 mentioned--in--23-5-102--is punishable by a fine of not less
19 than \$100 or more than \$1,000 and may be imprisoned for not
20 less than 3 months or more than 1 year in the discretion of
21 the court, provided that this section shall not an illegal
22 gambling device. This section does not apply to a public
23 officer or to a person coming into possession thereof of an
24 illegal gambling device in or by reason of the performance
25 of an official duty and holding the same it to be disposed

of according to law.

(2) (a) The department may adopt rules to license persons to manufacture gambling devices that are not legal for public play in the state and are manufactured only for export from the state.

(b) A person may not manufacture or possess an illegal gambling device for export from the state without having obtained a license from the department. The department may charge an administrative fee for the license that is commensurate with the cost of issuing the license.

Section 22. Section 23-5-104, MCA, is amended to read:

~~"23-5-104. Slot--machines-----possession--unlawful--exception Possession of antique slot machines. (1) Except as provided in subsections (2) through (5), it shall be a misdemeanor and punishable as hereinafter provided for any person to use, possess, operate, keep or maintain for use or operation or otherwise, anywhere within the state of Montana, any slot machine of any sort or kind whatsoever.~~

~~(2) The provisions of subsection (1) and 23-5-121 do not apply to antique slot machines possessed, located, and used in accordance with subsections (2) through (5). For the purposes of subsections (2) through (5), an antique slot machine is a slot machine manufactured prior to 1950, the operation of which is exclusively mechanical in nature and is not aided in whole or in part by any electronic means. An~~

antique slot machine is a slot machine manufactured prior to 1950 that is operated exclusively by mechanical means and is not aided in whole or in part by any electrical means.

~~(3)(2)~~ Except as provided in subsection ~~(4)~~ (3), an antique slot machines machine may be possessed, located, and operated only in a private residential dwelling.

~~(4)(3)~~ Antique slot machines An antique slot machine may be possessed or located for purposes of display only and not for operation in any public museum owned and operated by the state of Montana, or a county, or a city.

~~(5)(4)~~ No antique slot machine may be operated for any commercial or charitable purpose."

NEW SECTION. Section 23. Criminal liabilities -- misdemeanor. A person who purposely or knowingly violates a provision of parts 1 through 6 of this chapter, the punishment of which is for a misdemeanor, must, upon conviction, be fined not less than \$500 or more than \$5,000, or imprisoned for not more than 1 year, or both, for each violation.

NEW SECTION. Section 24. Criminal liabilities -- felony. A person who purposely or knowingly violates a provision of parts 1 through 6 of this chapter, the punishment for which is a felony, may upon conviction be fined not more than \$50,000 or imprisoned for not more than 10 years, or both, for each violation. However, if the

1 person previously has been convicted of a felony involving
2 a gambling device, gambling activity, or gambling
3 enterprise, he must be imprisoned for at least 2 years.

4 NEW SECTION. Section 25. Prosecution. The county
5 attorney of the county in which a violation of a provision
6 of parts 1 through 6 of this chapter occurs shall prosecute
7 all gambling actions within the jurisdiction of the
8 department. However, if the county attorney declines
9 prosecution or fails to commence an action within a
10 reasonable time, the attorney general may initiate and
11 conduct the prosecution on behalf of the state.

12 **Section 26.** Section 23-5-311, MCA, is amended to read:

13 "23-5-311. Authorized card games. (1)-it-is-unlawful
14 for-any-person-to-conduct-or-participate-in-any-card-game-or
15 make-any-tables-available-for--the--playing--of--card--games
16 except-those-card-games-authorized-by-this-part.

17 (2)(1) The card games authorized by this part are and
18 are limited to the card games known as bridge, cribbage,
19 hearts, panguingue, pinochle, pitch, poker, rummy, solo, and
20 whist-solo-and-poker.

21 (2) A person may only conduct or participate in a live
22 card game or make a live card game table available for
23 public play of a live card game that is specifically
24 authorized by this part and described by department rules.

25 (3) This part does not apply to games simulated on

1 electronic video gambling machines authorized under part 6
2 of this chapter."

3 NEW SECTION. Section 27. Presence and control of
4 dealer. A live card game may not be played except on a live
5 card game table in the presence and under the control of a
6 licensed dealer on the premises of a licensed operator.

7 NEW SECTION. Section 28. Card game dealers --
8 license. (1) A person may not deal cards in a live card game
9 without being licensed annually by the department.

10 (2) The fee for each year in which the license is
11 effective must be commensurate with the administrative costs
12 associated with dealer licensing as established by
13 department rules. The fee may not be prorated.

14 (3) The department shall retain for administrative
15 purposes the license fee charged for the issuance of a
16 dealer's license.

17 (4) A licensed dealer shall have on his person, and
18 display upon request, his dealer's license when he is
19 working as a dealer.

20 (5) The department may adopt rules to implement
21 temporary licensing procedures until a permanent license is
22 issued to a dealer. The department may delegate the
23 authority to issue temporary licenses to local governments
24 including the authority to assess and retain a fee for the
25 temporary license.

NEW SECTION. Section 29. Live card game table -- permit -- fees -- disposition of fees. (1) A person who has been granted an operator's license under [section 11] and a license under 16-4-401(2) to sell alcoholic beverages for consumption on the premises may be granted an annual permit for the placement of live card game tables.

(2) The annual permit fee in lieu of taxes for each live card game table operated in a licensed operator's premises may not be prorated and must be:

(a) \$250 for the first table;

(b) \$750 for the second table; and

(c) \$1,000 for the third and each additional table.

(3) The department shall retain for administrative purposes \$100 of the fee collected under this part for each live card game table.

(4) The department shall forward on a quarterly basis the remaining balance of the fee collected under subsection

(2) to the treasurer of the county, or the clerk, finance officer, or treasurer of the city or town in which the live card game table is located for deposit to the county or municipal treasury. The local government portion of this fee is statutorily appropriated to the department as provided in 17-7-502 for deposit to the county or municipal treasury.

Section 30. Section 23-5-321, MCA, is amended to read:

"23-5-321. Bicensing Issuance of permits by local

governing bodies prohibited. ~~{1}~~ Any A city, town, or county may not issue licenses permits for the live card games provided--for or live card game tables authorized in this part. to-be-conducted-on-premises-which-have--been--licensed for-the-sale-of-liquor,-beer,-food,-cigarettes,-or-any-other consumable--products--Within--the--cities--or--towns,-such licenses-may-be-issued-by--the--city--or--town--council--or commission,-licenses-for-games-conducted-on-premises-outside the--limits--of-any-city-or-town-may-be-issued-by-the-county commissioners-of-the-respective-counties,-When-a-license-has been-required-by-any-city,-town,-or--county,-no--game--as provided-for-in-this-part-shall-be-conducted-on-any-premises which-have-been-licensed-for-the-sale-of-liquor,-beer,-food,- cigarettes,-or--any--other--consumable-product-without-such license-having-first-been-obtained.

~~{2}~~ Any governing body may charge an annual license fee for each license so issued under this part, which license fee, if any, shall expire on June 30 of each year, and such fee shall be prorated.

~~{3}~~ Any license issued pursuant to this part shall be deemed to be a revocable privilege, and no holder thereof may acquire any vested rights therein or thereunder."

Section 31. Section 23-5-312, MCA, is amended to read:

"23-5-312. Prizes not to exceed one three hundred dollars. No prize for any individual game shall exceed the

1 ~~value--of-\$100.~~ A prize for an individual live card game may
 2 not exceed the value of \$300. Games shall may not be
 3 combined in any manner so as to increase the value of the
 4 ultimate prize awarded."

5 NEW SECTION. Section 32. Live card game tables --
 6 hours of play -- restriction -- exception. Live card game
 7 tables must be closed for play between the hours of 2 a.m.
 8 and 8 a.m. each day. However, in the jurisdiction of a
 9 local government where the table is located, the local
 10 government may adopt an ordinance defining the hours of play
 11 within that jurisdiction.

12 **Section 33.** Section 23-5-313, MCA, is amended to read:

13 "23-5-313. Rules of play to be posted -- rake-off
 14 approved. Rules governing the conduct of each game shall
 15 must be prominently posted within the sight of the players
 16 at a live card game table on the premises of any--licensed
 17 establishment--where--such--game--is--conducted a licensed
 18 operator. Such The rules shall must include notice of the
 19 maximum percentage rake-off, if any, and shall must require
 20 that the person taking the rake-off do so in an obvious
 21 manner and--only--after--announcing--the--amount--of--each
 22 rake-off, which shall only be taken at the conclusion of
 23 each--game--when--the--winner--of--each--individual--pot--has--been
 24 determined."

25 **Section 34.** Section 23-5-331, MCA, is amended to read:

1 "23-5-331. Penalty. Every A person who willfully
 2 purposely or knowingly violates or who procures, aids, or
 3 abets in the--willful a violation of this part or any
 4 ordinance, resolution, or regulation rule adopted pursuant
 5 thereto--shall--be--deemed to this part is guilty of a
 6 misdemeanor and--upon--conviction--shall--be--punished--by--a--fine
 7 of--not--more--than--\$1,000--or--imprisonment--in--the--county--jail
 8 for--not--more--than--3--months,--or--both punishable pursuant to
 9 [section 23]."

10 NEW SECTION. Section 35. Authorized live bingo, keno,
 11 and raffles. (1) A person may only conduct or participate in
 12 a live bingo and keno game or raffle operated pursuant to
 13 this part.

14 (2) This part does not apply to a game simulated on a
 15 video gambling machine authorized by part 6 of this chapter.

16 NEW SECTION. Section 36. Exempt charitable
 17 organizations. An organization qualified for exemption under
 18 26 U.S.C. 501(c)(3) and (c)(4) is exempt from the taxation
 19 and license fees imposed by this part. The organization
 20 shall comply with other statutes and rules relating to the
 21 operation of live bingo and keno or raffles. A qualified
 22 organization shall apply to the department for a cost-free
 23 permit to conduct charitable live bingo and keno games or
 24 raffles.

25 NEW SECTION. Section 37. Bingo and keno callers --

1 qualifications -- license -- fee. (1) A person may not act
2 as a bingo or keno caller without being licensed annually by
3 the department.

4 (2) The fee for each year in which the license is
5 effective must be commensurate with the costs associated
6 with bingo or keno caller licensing as established by
7 department rules. The fee may not be prorated.

8 (3) The department shall retain for administrative
9 purposes the license fee charged for the issuance of a bingo
10 or keno caller's license.

11 (4) A bingo or keno caller shall have on his person,
12 and display upon request, his bingo or keno caller's license
13 whenever he is working as a bingo or keno caller.

14 (5) The department may adopt rules to implement
15 temporary licensing procedures until a permanent license is
16 issued. The department may delegate the authority to issue
17 temporary licenses to local governments, including the
18 authority to assess and retain a fee for a temporary
19 license.

20 NEW SECTION. Section 38. Live bingo or keno permit --
21 fees -- disposition of fees. (1) A person who has been
22 granted an operator's license may be granted an annual
23 permit by the department to conduct live bingo or keno games
24 on specified premises.

25 (2) The permit fee for each of the premises in which a

1 live bingo or keno game is conducted may not be prorated and
2 must be \$500.

3 (3) The department shall retain the permit fee for
4 administrative costs.

5 NEW SECTION. Section 39. Bingo and keno gross
6 proceeds tax -- records -- distribution -- quarterly
7 statement and payment. (1) A licensee who has received a
8 permit to operate bingo or keno games shall pay to the
9 department a tax of 3% of the gross proceeds from the
10 operation of each live bingo and keno game operated on his
11 premises.

12 (2) A licensee shall keep a record of gross proceeds
13 in the form the department requires. At all times during the
14 business hours of the licensee the records must be available
15 for inspection by the department.

16 (3) A licensee shall, within 15 days after the end of
17 each quarter, complete and deliver to the department a
18 statement showing the total gross proceeds for each live
19 keno or bingo game operated by him and the total amount due
20 as live bingo or keno gross proceeds tax for the preceding
21 quarter. This statement must contain any other relevant
22 information required by the department.

23 (4) The department shall forward the tax collected
24 under subsection (3) to the treasurer of the county or the
25 clerk, finance officer, or treasurer of the city or town in

1 which the licensed game is located for deposit to the county
2 or municipal treasury. A county is not entitled to proceeds
3 from taxes on live bingo or keno games located in
4 unincorporated cities and towns within the county. The tax
5 collected under subsection (3) is statutorily appropriated
6 to the department as provided in 17-7-502 for deposit to the
7 county or municipal treasury.

8 **Section 40.** Section 23-5-412, MCA, is amended to read:

9 *23-5-412. Bingo Card prices and prizes. The price for
10 an individual bingo or keno card may not exceed 50 cents.
11 Bingo prizes may be paid in either tangible personal
12 property or cash; except that a prize must be paid in
13 tangible personal property if the game is played on a
14 player-operated electronic video game machine. A prize may
15 not exceed the value of \$200 \$300 for each individual bingo
16 award or keno card. The price for an individual bingo card
17 may not exceed 50 cents. It shall be is unlawful to, in any
18 manner, combine any awards so as to increase the ultimate
19 value of such the award."

20 **Section 41.** Section 23-5-413, MCA, is amended to read:

21 *23-5-413. Raffle prizes restricted---exemption. (1)
22 Raffle prizes must be in tangible personal property only and
23 not in money, cash, stocks, bonds, evidences of
24 indebtedness, or other intangible personal property and must
25 not exceed the value of \$1,000 for each individual raffle

1 card ticket. It shall be is unlawful to, in any manner,
2 combine any awards so as to increase the ultimate value of
3 such award the prize awarded for each ticket.

4 (2) A separate permit must be issued by the board of
5 county commissioners for each raffle conducted within its
6 jurisdiction. The permit must be issued before the raffle
7 may be conducted. A person who has conducted a raffle must
8 submit an accounting to the board of county commissioners
9 within 30 days following the completion of the raffle. The
10 sale of raffle tickets authorized by this part is restricted
11 to events and participants within the geographic confines of
12 the state.

13 (2)(3) (a) The restrictions of subsection (1) do not
14 apply to a raffle conducted by a nonprofit corporation,
15 religious corporation sole, or other nonprofit organization
16 when if the corporation or organization is licensed
17 permitted by the board of county commissioners to conduct
18 the raffle. A separate license shall be required for each
19 raffie conducted.

20 (b) The nonprofit organization or corporation seeking
21 the license permission under subsection (2)(3)(a) must shall
22 apply to the board of county commissioners for the license
23 permit and must provide the following information:

- 24 (i) the cost and number of raffle tickets to be sold;
25 (ii) the charitable purposes the proceeds of the raffle

are intended to benefit; and

(iii) the proposed prizes and their value.

(c) The proceeds from the sale of the raffle tickets are to may be used only for charitable purposes or to pay for prizes. The raffle prize must be in tangible personal property only and not in money, cash, stock, bonds, evidence of indebtedness, or other intangible personal property. None of the proceeds may be used for the administrative cost of conducting the raffle.

~~{d}--The corporation--or--organization--conducting--the raffle--must--submit--an--accounting--to--the--board--of--county commissioners--within--30--days--following--the--completion--of--the raffle--The person or persons submitting the application--to the board of county commissioners--along--with--the--corporation or--organization--conducting--the--raffle--shall--be--responsible for--submitting--the--accounting--to--the--board--of--county commissioners--"~~

Section 42. Section 23-5-414, MCA, is amended to read:

23-5-414. Restrictions on bingo, and keno, ~~and~~ raffles ~~---bingo or keno machines in establishment limit---hours of operation---exception.~~ {1} In the playing of live bingo or keno, no a person who is not physically present on the premises where the game is actually conducted ~~shall~~ may not be allowed to participate as a player in the game.

~~{2}--Raffles--authorized--by--this---part---shall---be~~

~~restricted--to--events--and--participants--within--the--geographic confines--of--the--state--of--Montana--~~

~~{3}--No--establishment--may--receive---licenses---under 23-5-421--for--or--make--available--for--play--more--than--15--bingo or--keno--machines--A--local--governing--body--however--may restrict--the--number--of--licensed--machines--available--for--play in--an--establishment--to--less--than--15--but--must--allow--at--least 5--~~

~~{4}--(a)--Except--as--provided--in--subsection--{4}{b},--an establishment--that--receives--a--license--to--make--a--bingo--or keno--machine--available--for--play--must--have--the--machine--shut off--each--day--during--the--hours--provided--in--16-3-304--for closure---of---licensed---retail---alcoholic---beverage establishments--~~

~~{b}--A--local--governing--body--may--establish--any--hours--of play--for--bingo--or--keno--machines--that--it--determines--proper--"~~

NEW SECTION. **Section 43.** Hours of play -- restrictions -- penalty. (1) A live bingo or keno game must be closed for play between the hours of 2 a.m. and 8 a.m. of each day. However, in the jurisdiction of a local government where the live bingo or keno game is played, the local government may adopt an ordinance defining other hours of play within that jurisdiction.

(2) A violation of this section is a misdemeanor punishable under [section 23].

Section 44. Section 23-5-431, MCA, is amended to read:

"23-5-431. Penalty Criminal penalty. Every A person who willfully purposely or knowingly violates or who procures, aids, or abets in the willful a violation of this part or any ordinance, resolution, or regulation rule adopted pursuant thereto shall be deemed to this part is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000 or imprisonment in the county jail for not more than 3 months, or both punishable pursuant to [section 23]."

Section 45. Section 23-5-602, MCA, is amended to read:

"23-5-602. Definitions. As used in this part, the following definitions apply:

(1) "Associated equipment" means all proprietary devices, machines, or parts used in the manufacture or maintenance of a video draw --poker gambling machine, including but not limited to integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitors, and metering devices, and cabinetry.

~~{2}--"Department"--means the department of commerce.~~

(2) "Bingo machine" means an electronic video gambling machine that, upon insertion of cash, is available to play bingo as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by

the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(3) "Draw poker machine" means an electronic video gambling machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker, as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

~~{3}~~(4) "Keno machine" means an electronic video game gambling machine that, upon insertion of cash, is available to play or simulate the play of the game of keno or bingo as provided in part 4 of this chapter, utilizing defined by rules of the department. The machine utilizes a video display and microprocessors, in which, by the skill of the player, or by chance, or both, the player may receive free games or credits that can may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

~~{4}--"Licensed establishment"--means:~~

{a}--with-respect-to-the-licensure-of-keno-machines,-an establishment-that-is-licensed-to-sell-alcoholic-beverages for-consumption-on-the-premises-or-an-establishment-licensed under-23-5-421,-and

{b}--with-respect-to-the-licensure-of-video-draw-poker machines,-an-establishment-that-is-licensed-to-sell alcoholic-beverages-for-consumption-on-the-premises-

{5}--"Licensee"---means---an-individual,-partnership, corporation,-or-association-that-has-been-issued-a-license by-the-department-for-the-placement-and-operation-of-video draw-poker-machines-or-keno-machines-in-the-licensed establishment-of-the-individual,-partnership,-corporation, or-association-

{6}--"Manufacturer-distributor"---means---an-individual, partnership,-corporation,-or-association-that-assembles, produces,-and-makes-or-supplies-video-draw-poker-machines-or associated-equipment-for-sale,-use,-or-distribution-in-this state-

{7}{5} "Net machine income" means money put into a video draw-poker-or-keno gambling machine minus credits paid out in cash.

{8}--"Used-keno-machine"---means-a-keno-machine,-as--that term--is-defined-in-this-section,-that-is-owned-or-possessioned by-an-applicant-on-the-day-he-applies-for-a-license-for--the used--machine--and--that--was-owned-or-operated-in-the-state

prior-to-June-30,-1987-

{9}--"Used-video-draw-poker-machine"---means-a-video-draw poker-machine,-as-that-term--is--defined--in--this--section, which--is--owned--or--possessioned-by-an-applicant-on-the-day-he applies-for-a-license-for-the-used--machine--and--which--was owned-or-operated-in-the-state-prior-to-February-3,-1984-

{10}--"Video-draw-poker-machine"---means-an-electronic video-game-machine--that,-upon-insertion--of--cash,-is available--to--play-or-simulate-the-play-of-the-game-of-draw poker,-as-provided-in-this-part,-utilizing-a--video--display and--microprocessors-in-which,-by-the-skill-of-the-player-or by-chance,-or-both,-the-player-may--receive--free--games--or credits--that--can--be--redeemed-for-cash,-The-term-does-not include-a--machine--that--directly--dispenses--coins,-cash, tokens,-or-anything-else-of-value-

(6) "Video gambling machine manufacturer-distributor" means a person who assembles, produces, makes, supplies, or repairs video gambling machines or associated equipment for sale, use, or distribution in the state."

Section 46. Section 23-5-603, MCA, is amended to read:

"23-5-603. Video draw-poker-or-keno gambling machines -- possession -- play -- hours-of-play-- restriction. (1) No-person-may-place-an-electronic-video-game-machine--that simulates--or--offers-a-game-of-poker,-bingo,-or-keno-in-his licensed-establishment-unless-he-is-licensed-under-23-5-612-

1 A person may only make available for public play the video
 2 gambling machines specifically authorized by this part.

3 (2) The video gambling machines specifically
 4 authorized by this part are bingo, keno, and draw poker
 5 machines. A person may not make available for public play a
 6 video gambling machine unless he has obtained an operator's
 7 license. Machines--licensed Only machines for which permits
 8 have been granted under 23-5-612 are legal; and it is--legal
 9 to play such machines; except that a person under the age of
 10 18 years may not play a video draw poker or keno machine may
 11 be made available for play by the public on the premises of
 12 a licensed operator.

13 (2)--Except as provided in subsection (3), an
 14 establishment that receives a license to make a video draw
 15 poker machine available for play must have the machine shut
 16 off each day during the hours provided in 16-3-304 for
 17 closure of licensed retail alcoholic beverage
 18 establishments.

19 (3)--A local governing body may establish any hours of
 20 play for video draw poker machines that it determines
 21 proper.

22 (4)--The provisions of part 3 of this chapter do not
 23 apply to or prohibit video draw poker or keno machines or
 24 the playing of such machines."

25 Section 4A. Section 23-5-611, MCA, is amended to read:

1 "23-5-611. State-license Machine permit qualifications
 2 -- limitations ---right-to-hearing. (1) (a)--A person who has
 3 been--granted--a license under 16-4-401(2) to sell alcoholic
 4 beverages for consumption on the premises may be--granted--a
 5 license--for--the--placement-of video draw poker machines in
 6 his licensed establishment. Only a person who has been
 7 granted an operator's license under [section 11] and a
 8 license under 16-4-401(2) to sell alcoholic beverages for
 9 consumption on the premises may be granted a permit for the
 10 placement of video gambling machines in his premises.

11 (b)--Each applicant for a license shall on the
 12 application form disclose to the department any previous
 13 experience or involvement as an owner or operator of
 14 gambling devices and establishments. Previous experience or
 15 involvement includes:

16 (i)--controlling of gambling devices as an owner or
 17 operator;

18 (ii)--employment with the owner or operator of gambling
 19 devices;

20 (iii)--employment in establishments where gambling is
 21 offered to the public; and

22 (iv)--conviction of violation of state or local gambling
 23 laws in any jurisdiction.

24 (2) An applicant for a permit shall disclose on the
 25 application form to the department any information required

by the department consistent with the provisions of [section 10].

{2}{3} A licensee may not have on the premises or make available for play on the premises of--his--licensed establishment more than five 20 machines of any combination that are legal under this part. In the jurisdiction of a local government where video gambling machines are played, the local government may by ordinance or resolution limit the number of video gambling machines to no less than five per operator premises.

{3}--A person denied a state license has the right to a hearing before the department. The hearing must be conducted in--accordance---with---the---provisions---of---the---Montana Administrative Procedure Act."

Section 48. Section 23-5-612, MCA, is amended to read:

"23-5-612. State license Machine permits -- fee -- used--keno-machines. (1) {a} The department, upon payment of the fee provided in subsection {1}{b} (2) and in conformance with rules adopted under 23-5-605 this part, shall issue to the licensee operator a license permit for each video draw poker-or-keno gambling machine.

{b}{2} The department shall charge an annual license permit fee of \$100 \$200 for each video draw-poker-machine and-\$100-for-each--keno gambling machine. The department shall retain \$100 of the total license permit fee collected

for purposes of administering this part,--except--23-5-615. The remaining \$100 must be returned on a quarterly basis to the local government jurisdiction in which the gambling machine is located.

(3) The license permit expires on June 30 of each year, and the fee may not be prorated.

{2}--A--used--keno-machine--may--be---licensed---under subsection--{1}--without-meeting-the-requirements-of-23-5-609 if--the--applicant--for--licensure--can--establish--to---the satisfaction---of--the--department--that,--on--the--date--of application, he owns or possesses a machine that was owned or operated in the state prior to June 30, 1987. A license issued under this subsection expires for all purposes no later than June 30, 1989."

Section 49. Section 23-5-631, MCA, is amended to read:

"23-5-631. Examination and approval of new video draw poker gambling machines and associated equipment -- fee. (1) The department shall examine and may approve a new video draw---poker---machines gambling machine and associated equipment which is are manufactured, sold, or distributed for use in this the state before the video draw-poker gambling machine or associated equipment is sold, played, or used.

(2) A video draw-poker gambling machine or associated equipment may not be examined or approved by the department

until the video gambling machine manufacturer-distributor of the machine or associated equipment is licensed as required in 23-5-625.

(3) All video gambling machines approved by the department of commerce prior to [the effective date of this act] must be considered approved under this part.

(4) The department shall require the manufacturer-distributor seeking the examination and approval of a new video draw-poker gambling machine or associated equipment to pay the anticipated actual costs of the examination in advance and, after the completion of the examination, shall refund overpayments or charge and collect amounts sufficient to reimburse the department for underpayments of actual costs.

(5) The department may inspect and test and approve, disapprove, or place a condition upon a video gambling machine prior to its distribution and placement for play by the public."

NEW SECTION. Section 50. video gambling machine specifications -- rules. The department shall adopt rules describing the video gambling machines authorized by this part and stating the specifications for video gambling machines authorized by this part.

Section 51. Section 23-5-616, MCA, is amended to read:

"23-5-616. Removal of machine from public access. If a

machine fails to meet the specifications and requirements of 23-5-606, 23-5-607, or 23-5-608 this part or any rule of the department at any time after its initial licensure permit has been issued, the licensee operator shall immediately remove the machine from public access until it meets all requirements."

Section 52. Section 23-5-625, MCA, is amended to read:

"23-5-625. Manufacturer-distributor---of---video---draw poker-----machines Video gambling machine manufacturer-distributor -- license -- fees. (1) It is unlawful for any person to assemble, produce, manufacture, sell,--or--distribute supply, or repair any video draw-poker gambling machine or associated equipment for use or play in this the state without having first been issued a video gambling machine manufacturer-distributor's license by the department.

(2) The department shall charge an annual license fee of \$1,000 for the issuance or renewal of a video gambling machine manufacturer-distributor's license.

(3) In addition to other license fees, the department may charge the applicant a one-time video gambling machine manufacturer-distributor's license application processing fee. The processing fee may not exceed the department's actual costs for processing an application.

(4) All video gambling machine

1 manufacturer-distributor's licenses expire on June 30 of
2 each year, and the license fee may not be prorated.

3 (5) The department shall retain the license and
4 processing fees collected for purposes of administering this
5 part, except-23-5-615 unless otherwise provided."

6 **Section 53.** Section 23-5-610, MCA, is amended to read:

7 "23-5-610. Video draw-poker-and-keno gambling machine
8 net income tax -- records -- distribution -- quarterly
9 statement and payment. (1) Each A licensee shall pay to the
10 department a video draw-poker-and-keno gambling machine tax
11 of 15% of net machine income from each video draw-poker--and
12 keno gambling machine licensed under this part.

13 (2) Each A licensee shall keep a record of net machine
14 income in such form as the department may require. The
15 records must at all times during the business hours of the
16 licensee be subject to inspection by the department, ~~its~~
17 ~~agents, or employees.~~

18 (3) Each A licensee shall, within 15 days after the
19 end of each quarter, complete and deliver to the department
20 a statement showing the total net machine income from each
21 video draw-poker-and-keno gambling machine licensed to him,
22 together with the total amount due the state as video draw
23 poker--and--keno gambling machine net income tax for the
24 preceding quarter. The statement must contain ~~such~~ other
25 relevant information as the department may require.

1 (4) (a) The department ~~must--deposit~~ shall forward
2 one-third of the tax collected under subsection (3) ~~in to~~
3 the general fund.

4 (b) The department ~~must~~ shall forward the remaining
5 two-thirds of the tax collected under subsection (3) to the
6 treasurer of the incorporated county or the clerk, finance
7 officer, or treasurer of the city or town in which the
8 licensed machine is located, for deposit to the county or
9 municipal treasury. Counties are not entitled to proceeds
10 from taxes on income from video draw-poker-and-keno gambling
11 machines located in incorporated cities and towns. The
12 two-thirds local government portion of tax collected under
13 subsection (3) is statutorily appropriated to the department
14 as provided in 17-7-502 for deposit to the county or
15 municipal treasury."

16 **Section 54.** Section 23-5-608, MCA, is amended to read:

17 "23-5-608. Limitation on amount of money played and
18 value of prizes -- payment of credits in cash. (1) A video
19 draw-poker-or-keno gambling machine may not allow more than
20 \$2 to be played on a game or award free games or credits in
21 excess of the ~~value-of-\$100-per-hand~~ following amounts:

22 (a) \$100 a hand or \$800 a game for a video draw poker
23 machine; and

24 (b) \$800 a game for a video keno or bingo machine.

25 (2) Each A licensee shall pay in cash all credits owed

1 to a player as shown on a valid ticket voucher provided in
2 23-5-606(4)(k)."

3 **Section 55.** Section 23-5-607, MCA, is amended to read:

4 "23-5-607. Expected payback -- verification. The
5 department shall prescribe the expected payback value of one
6 credit played awarded to be at least 80% of the value of a
7 one credit played. Each video draw-poker-or--keno gambling
8 machine must have an electronic accounting device that the
9 department may use to verify the winning percentage. The
10 department--may--not-publish-or-otherwise-disseminate-income
11 figures--and--other--statistics--obtained--in--the--payback
12 verification--process--or--contained-in-payback-verification
13 reports-in-a-manner--that--allows--or--helps--a--person--to
14 identify--a--particular--machine--or--to--match-a-particular
15 machine-with-a-particular-income-or-statistic."

16 **NEW SECTION. Section 56.** Video gambling machines --
17 hours of play -- penalty. (1) A video gambling machine may
18 not be played between the hours of 2 a.m. and 8 a.m. each
19 day. However, in the jurisdiction of a local government
20 where the video gambling machine is played, the local
21 government may adopt an ordinance defining the hours of play
22 within that jurisdiction.

23 (2) A violation of this section is a misdemeanor
24 punishable under [section 23].

25 **Section 57.** Section 23-5-613, MCA, is amended to read:

1 "23-5-613. Investigations-and--violations Violations.
2 (1)--The--department--or--duly--authorized--department
3 representatives--shall--make--necessary--investigations--suspend
4 or-revoke-state-licenses-for-violations-of-this-part--except
5 23-5-615--and--hold--hearings--on--such--matters--A--license--may
6 be--suspended--prior--to--a--hearing--upon--a--finding--of--danger--to
7 public-health-and-welfare-but-may-not-be-revoked--until--the
8 hearing-is-completed--

9 (2)--A Unless otherwise provided in this part, a
10 violation of this part--except--23-5-615, or a rule
11 promulgated under--23-5-605 by the department is a criminal
12 offense--and--a--fine--not--to--exceed--\$10,000--for--the--first
13 violation--and--\$15,000--for--a--subsequent--violation--must--be
14 imposed misdemeanor punishable under [section 23].

15 (3)--If--a--video--draw--poker--machine--is--operated--in
16 violation--of--this--part--except--23-5-615--it--may--be--seized
17 under--23-5-121--and--the--provisions--of--23-5-122--apply--

18 (4)--Employees--of--the--department--or--duly--authorized
19 department--representatives--designated--as--enforcement--agents
20 may--investigate--the--background--of--license--applicants--to--the
21 extent--judged--necessary--by--the--department--but--no--person--may
22 be--investigated--prior--to--his--submission--of--an--application
23 for--a--license--

24 (5)--(a)--Findings--of--suspected--illegal--activity--must--be
25 reported--to--the--appropriate--law--enforcement--agency--

(b)--The clerk of the court shall, upon final judgment of conviction of a licensee, report to the department the name of the licensee convicted of violating a local gambling ordinance.

(c)--On receipt of such report, the department may commence proceedings to revoke or suspend the licensee's video draw poker license.

(6)--Any peace officer of this state may arrest a person for tampering with a video draw poker machine, attempting or conspiring to manipulate the outcome or the payoff of a video draw poker machine, or manipulating the outcome or payoff of a video draw poker machine by physical tampering or other interference with the proper functioning of the machine."

NEW SECTION. Section 58. Tampering with or manipulating video gambling machine -- penalty. (1) It is a felony to manipulate or attempt or conspire to manipulate the outcome or payoff of a video gambling machine by physical tampering or other interference with the proper functioning of the machine.

(2) A violation of this section is a felony and must be punished in accordance with [section 24].

Section 59. Section 23-5-503, MCA, is amended to read:

"23-5-503. Rules. (1) The card used for recording the pool and upon which the squares or spaces appear shall

clearly state indicate in advance of the sale of any chances the number of chances to be sold in that specific pool, the name of the event, the consideration to be paid for each chance, and the total amount to be paid to the winners.

(2) No A chance to participate in a sports pool may not be sold other than upon the premises in which the sports pool is conducted. No An individual chance to participate in a sports pool shall may not be sold for a consideration in excess of \$1, and the total amount to be paid to the winners of any individual sports pool shall may not exceed the value of \$100. The winner of any sports pool shall receive a 100% payout of the value of the sports pool."

Section 60. Section 23-5-509, MCA, is amended to read:

"23-5-509. Penalty. Every A person who willfully purposely or knowingly violates or who procures, aids, or abets in the willful a violation of this part shall be deemed is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000 or imprisonment in the county jail for not more than 3 months, or both punishable pursuant to [section 23]."

Section 61. Section 23-5-1101, MCA, is amended to read:

"23-5-1101. Definition. As used in this part, "Calcutta pool" means a form of auction pool in which persons bid or wager money, with winnings awarded based on

the--outcome--of--an--event;--except--that conducted by an organization qualified for exemption under 26 U.S.C. 501(c)(3) or (c)(4) and authorized by the department. The Calcutta pool must be an auction pool in which:

(1) a person's wager is equal to his bid;

(2) the organization conducting the pool has no direct interest in the pool;

(3) the rules of the pool are publicly posted;

(4) no more than one wager for each competitor is allowed;

(5) at least 50% of the total pool is paid out in prizes;

(6) persons may not bid or wager money on any elementary school or high school sports event; and

(7) the underlying event has more than two entrants."

Section 62. Section 23-5-1105, MCA, is amended to read:

"23-5-1105. Penalty. Any A person who violates a provision of this part is guilty of a misdemeanor and--upon conviction--shall-be-fined-not-more-than-\$1,000-or-imprisoned in--the--county--jail--for-a-term-not-to-exceed-3-months;--or both punishable pursuant to [section 23]."

Section 63. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an

appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; [section 29]; [section 39]; 23-5-1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103; section 13, House Bill No. 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987.

1 (4) There is a statutory appropriation to pay the
 2 principal, interest, premiums, and costs of issuing, paying,
 3 and securing all bonds, notes, or other obligations, as due,
 4 that have been authorized and issued pursuant to the laws of
 5 Montana. Agencies that have entered into agreements
 6 authorized by the laws of Montana to pay the state
 7 treasurer, for deposit in accordance with 17-2-101 through
 8 17-2-107, as determined by the state treasurer, an amount
 9 sufficient to pay the principal and interest as due on the
 10 bonds or notes have statutory appropriation authority for
 11 such payments. (In subsection (3): pursuant to sec. 15, Ch.
 12 607, L. 1987, the inclusion of 15-65-121 terminates June 30,
 13 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion
 14 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.
 15 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.
 16 1987, terminates July 1, 1988.)"

17 NEW SECTION. Section 64. Reorganization procedure.
 18 The provisions of sections 2-15-131 through 2-15-137 govern
 19 the transfer of the various functions contained in [this
 20 act] from the department of commerce to the department of
 21 justice.

22 NEW SECTION. Section 65. Implementation. (1) The
 23 governor shall by executive order implement the provisions
 24 of [this act].

25 (2) The governor may by executive order assign to the

1 department of justice in a manner consistent with [this act]
 2 functions allocated to the department of commerce by the
 3 51st legislature relating to the implementation of Title 23,
 4 chapter 5, parts 1 through 6, that are not transferred by
 5 [this act].

6 NEW SECTION. Section 66. Repealer. Sections 23-5-105
 7 through 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124
 8 through 23-5-127, 23-5-132 through 23-5-134, 23-5-141
 9 through 23-5-144, 23-5-201 through 23-5-211, 23-5-301
 10 through 23-5-303, 23-5-314 through 23-5-316, 23-5-322,
 11 23-5-323, 23-5-332, 23-5-401 through 23-5-403, 23-5-411,
 12 23-5-415 through 23-5-418, 23-5-421 through 23-5-423,
 13 23-5-504 through 23-5-508, 23-5-510, 23-5-511, 23-5-601,
 14 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23-5-618,
 15 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103,
 16 23-5-1104, MCA, are repealed.

17 NEW SECTION. Section 67. Extension of authority. Any
 18 existing authority to make rules on the subject of the
 19 provisions of [this act] is extended to the provisions of
 20 [this act].

21 NEW SECTION. Section 68. Codification instruction.
 22 (1) [Sections 1, 2, 4 through 8, 10 through 12, 16, 18
 23 through 20, and 23 through 25] are intended to be codified
 24 as an integral part of Title 23, chapter 5, part 1, and the
 25 provisions of Title 23, chapter 5, part 1, apply to

1 [sections 1, 2, 4 through 8, 10 through 12, 16, 18 through
2 20, and 23 through 25].

3 (2) [Sections 27 through 29 and 32] are intended to be
4 codified as an integral part of Title 23, chapter 5, part 3,
5 and the provisions of Title 23, chapter 5, part 3, apply to
6 [sections 27 through 29 and 32].

7 (3) [Sections 35 through 39 and 43] are intended to be
8 codified as an integral part of Title 23, chapter 5, part 4,
9 and the provisions of Title 23, chapter 5, part 4, apply to
10 [sections 35 through 39 and 43].

11 (4) [Sections 50, 56, and 58] are intended to be
12 codified as an integral part of Title 23, chapter 5, part 6,
13 and the provisions of Title 23, chapter 5, part 6, apply to
14 [sections 50, 56, and 58].

15 (5) The code commissioner shall recodify the
16 provisions of Title 23, chapter 5, part 11, as an integral
17 part of Title 23, chapter 5, part 2.

18 NEW SECTION. Section 69. Severability. If a part of
19 [this act] is invalid, all valid parts that are severable
20 from the invalid part remain in effect. If a part of [this
21 act] is invalid in one or more of its applications, the part
22 remains in effect in all valid applications that are
23 severable from the invalid applications.

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the public gambling laws of Montana; providing for licensure and regulation of gambling activities by the Department of Justice; and providing for statutory appropriation.

ASSUMPTIONS:

1. The Department of Justice will be given authority to regulate all currently legal forms of gambling in Montana except the state lottery and horse racing.
This includes:
 - video poker, video keno, and video bingo which are currently regulated in the Department of Commerce with contractual help from the Department of Revenue for investigations.
 - live keno, bingo and live card games including poker which are currently regulated by local governments.
2. Programs and staff related to video gambling located at the Department of Commerce will be transferred to the Department of Justice.
3. Programs and staff related to investigations for video gambling purposes will be transferred from the Department of Revenue to the Department of Justice. Investigators will be upgraded from grade 14 to grade 16.
4. The Department of Justice will be given authority to create training programs for licensees and law enforcement personnel. In addition, programs for addicted and problem gamblers will be created.
5. Assumptions included here only address currently legal forms of gambling. This estimate does not include the legalization of "21", punchboards, pulltabs or any other forms of gambling which might be legalized by the legislature.
6. Estimates of current local government income and numbers of live poker, live keno, live bingo, card dealers and bingo callers derived from local government survey conducted in spring of 1987.
7. Current funding level of the Department of Commerce is the governor's recommended budget less the modification for a Gaming Commission.
8. Funds in current level Department of Commerce operating expense for contracting investigations in the Department of Revenue have been shown in the proposed level as Personal Services in the Department of Justice.
9. Department of Revenue expenditures will decrease by \$186,777 and \$185,864 for Personal Service in FY90 and FY91 respectively and \$58,588 and \$58,301 in Operating Expenses in FY90 and FY91 respectively.



RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE 2/22/89



DELWYN GAGE, PRIMARY SPONSOR

DATE 2/27/89

FISCAL IMPACT:

<u>Revenue:</u>	Current	FY90		Current	FY91	
	Law	Proposed	Difference	Law	Proposed	Difference
<u>License Fees:</u>						
Machines	\$ 1,500,000	\$ 2,000,000	\$ 500,000	\$ 1,550,000	\$ 2,100,000	\$ 550,000
Live Card Games	-0-	75,000	75,000	-0-	75,000	75,000
Live Bingo/Keno	-0-	190,000	190,000	-0-	190,000	190,000
Dealers/Callers	37,328	75,000	37,672	37,328	75,000	37,672
<u>Taxes:</u>						
Machines	13,000,000	13,000,000	-0-	13,500,000	13,500,000	-0-
Live Card Games	70,000	387,500	317,500	70,000	387,500	317,500
Live Bingo/Keno	28,000	1,140,000	1,112,000	28,000	1,140,000	1,112,000
<u>Penalties</u>	75,000	110,000	35,000	75,000	110,000	35,000
Total	\$14,710,328	\$16,977,500	\$2,267,172	\$15,260,328	\$17,577,500	\$2,317,172
<u>Fund Information:</u>						
General Fund	\$ 4,290,000	\$ 4,290,000	\$ -0-	\$ 4,455,000	\$ 4,555,000	\$ -0-
Special Revenue Fund	1,075,000	1,450,000	375,000	1,075,000	1,500,000	425,000
Local Governments	9,345,328	11,237,500	1,892,172	9,730,328	11,622,500	1,892,172
Total	\$14,710,328	\$16,977,500	\$2,267,172	\$15,260,328	\$17,577,500	\$2,317,172

Local government revenues shown under current level above include those collected at the local level under current law. These will be collected by the state and passed back to the local government under the proposed law.

Expenditures:

Department of Commerce

Personal Services	\$ 305,660	\$ -0-	(\$305,660)	\$ 306,165	\$ -0-	(\$306,165)
Operating Expenses	469,082	-0-	(469,082)	467,335	-0-	(467,335)
Equipment	30,467	-0-	(30,467)	13,895	-0-	(13,895)
Total	\$ 805,209	\$ -0-	(\$805,209)	\$ 787,395	\$ -0-	(\$787,395)

Department of Justice

Personal Services	\$ -0-	\$ 898,800	\$ 898,800	\$ -0-	\$ 899,305	\$ 899,305
Operating Expenses	-0-	262,023	262,023	-0-	260,276	260,276
Equipment	-0-	111,467	111,467	-0-	51,895	51,895
Total	\$ -0-	\$ 1,272,290	\$1,272,290	\$ -0-	\$ 1,211,476	\$1,211,476
Total Expenditure Impact:	\$ 805,209	\$ 1,272,290	\$ 467,081	\$ 787,395	\$ 1,211,476	\$ 424,081

EFFECT ON COUNTY OR OTHER LOCAL REVENUE EXPENDITURES:

Under the proposal, revenues of \$11,237,500 in FY90 and \$11,622,500 in FY91 will be collected by the Department of Justice and returned to local government. It is estimated that local government revenues will increase \$1,892,172 each year. Local government expenses should decrease each year because all gambling licensing and tax collection will be administered by the state.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

The wording in section 55 prescribing the expected payback value of a video gambling machine is statistically inapplicable. A suggested amendment is ^{to be by law} "the expected value of the payback of one credit played to be at least 80% of the value of the credit."

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bruce Crippen, on February 17, 1989, at 10:00 a.m.

ROLL CALL

Members Present: Chairman Bruce Crippen, Vice Chairman Al Bishop, Senators Tom Beck, Mike Halligan, Bob Brown, Joe Mazurek, Loren Jenkins, R.J. "Dick" Pinsoneault, John Harp and Bill Yellowtail

Members Excused: None

Members Absent: None

Staff Present: Valencia Lane, Staff Attorney; Rosemary Jacoby, Secretary

Announcements/Discussion: Chairman Crippen announced that the committee would probably work through the lunch hour in an attempt to act on bills pending.

HEARING ON SENATE BILL 433

Presentation and Opening Statement by Sponsor:

Senator Bob Williams, District #15, Hobson, Montana presented SB 433. He stated that the bill would allow child support action over a non-resident parent. The bill would authorize state district courts to exercise personal jurisdiction over a non-resident parent in a child support action, when a non-resident parent has significant ties to the state. The bill is not to take the place of URESA, but is to supplement URESA.

List of Testifying Proponents and What Group they Represent:

Brenda Nordlund, lobbyist for the Montana Women's Lobby
Cindy Thornton, Missoula

List of Testifying Opponents and What Group They Represent:

None

Recommendation and Vote: Senator Pinsoneault MOVED that
Senate Bill 452 DO PASS AS AMENDED. The MOTION CARRIED
UNANIMOUSLY.

HEARING ON SENATE BILL 431

Presentation and Opening Statement by Sponsor:

Senator Del Gage, Senate District 5, presented SB 431. He explained that the bill was at the request of the Department of Justice.

List of Testifying Proponents and What Group they Represent:

Marc Racicot, Attorney General
John Willems, Dept. of Commerce, Video Gaming Control bureau
chief
Jim Durkin, Dir., Gaming Industry Association
Ed Kennedy, Mayor of Kalispell, State Gaming Advisory
Council
Mignon Waterman, Montana Association of Churches
Phil Strobe, Montana Tavern Association
Al Donahue, Gaming Advisory Council
Andy Poole, Dept. of Commerce
Pious Ehli, Big B Bingo Parlors, Billings
Tex Pate, Montana Auction Association
Terry Will, owner of a bingo parlor

List of Testifying Opponents and What Group They Represent:

Lynn Seelye, Attorney and Sailboat Bingo Parlor, Great Falls
Randy Reger, Gaming Industry Association
Sid Smith, Bingo Palace, Helena

Testimony:

Marc Racicot explained the bill as a result of an advisory council that was appointed by Governor Schwinden to study the issue of Gambling in the state of Montana. He explained that in 1972 there was no gambling by the Constitution. Gambling has grown since that time in terms of the type of gambling which are legal but a form of regulation and kind of revenue that is generated. The 1972 Constitution states that all gambling in Montana is illegal unless specifically authorized by the Legislature. The Legislature has authorized live bingo, live keno, live poker, and other live card games. The Legislature has also authorized the state

lottery, para-mutual racing, sport pools, raffles, and calcuttas. Finally the Legislature has authorized video gambling machines on which you can play bingo, keno and poker.

Attorney General Racicot explained that in terms of the different kinds of gambling authorized, Montana is the third largest gambling state in the country following Nevada and New Jersey. At this point in time approximately 250 million dollars in quarters are being fed into video gambling machines gambling in the state. Of that amount, 80 million dollars is the profit that the industry is realizing before taxes are paid. 8 million dollars are being returned to local governments and 4 million dollars are going into the state general fund. This is only video gambling machine revenues and does not include the revenues expended on other legal forms of gambling in Montana, let alone illegal gambling that takes place in the state. How much money is wagered on live keno, bingo and poker; how much is wagered on sports pools and calcuttas; the answer is not known. The reason that no one knows is that these forms of gambling are regulated or not, as the case may be, regulated by local government.

Attorney General Racicot pointed out that the gaming advisory council surveyed local governing bodies on the forms of gambling and their statutory power to tax and regulate. The surveys went out to all 156 local governing bodies in Montana. 135 of those responded, only 15% created a local regulatory council to oversee the gambling in their area. Only 40% taxed or assessed fees on that gambling even though they were empowered to do so by the Legislature. One of the survey questions asked local governments to identify the types of gambling in their area. Incredibly some of the local governments identified games that are clearly illegal, he said. He did not want to imply that local governments do not care. Most of the larger cities and counties in the state take responsibility for the gambling in their area and regulate and tax that gambling. There are two problems that exist. One small communities and counties do not have the resources to tax and regulate the gambling in their area. Large communities, while taking a much more active role in the regulation of their gambling, interpret the statutes much different from jurisdiction to jurisdiction. That is why there are forms of illegal gambling in Montana. The result of that kind of fragmentation in the state is that local governments are losing authorized tax revenue, not only because they do not tax the legal gambling but even if

they do the illegal gambling dollar is a dollar spent outside of a regulatory process that will never be collected. The industry is having to compete with illegal gambling enterprises that otherwise would be available on a competitive basis. One business person may be paying \$1500 a year to run a poker machine or game, which within a mile in a different jurisdiction, there is no annual fee. A card dealer loses his or her dealer licence in Missoula, because of illegal behavior like skinning or dealing good hands to a partner, and that person moves to a jurisdiction where they don't licence card dealers. The possibilities of moving from one jurisdiction to another, once found out, are endless here in the Big Sky Country.

The real question is who benefits from any fragmentation in the state of Montana. Neither local governments, state, legitimate businesses, or players. The person that benefits are the person with the desire or willingness to hide behind the statutes as they currently exist. The person who wants and currently gives the state in the 250 million dollars of video gambling machine revenues and all the rest of it without playing by the rules such as they are. There is definitely a need for uniformity and regulation at the state level. Local control has led not to less gambling but to more. The Gaming Advisory Council at Montana State University conducted a statically valid gambling survey last Spring where they asked a number of pertinent questions about gambling to all citizens both male and female. The question receiving the highest positive response was whether they were in favor of uniform regulation and control. 92% of the response favored uniform control and regulation of gambling in Montana. Gambling is not a local government issue it is a Montana issue. It has always been a legislative issue, year in and year out. The question we face today are what do we need to do in Montana to assist local governments, state government, the industry, law enforcement and the players regarding gambling legislation. What do we need to do to force the illegal gambling element out of business in this state.

These are major questions that the gaming advisory council wrestled with throughout the last year. He pointed out that they did not work in a back room but held public hearings throughout the state so that citizens could express their opinions about gambling in Montana. They held over 18 council meetings all over Montana, received input from the industry, local governments, church groups and organizations, law enforcement agencies and other interest groups including players. They conducted a local government

survey, they contracted with a survey research center at MSU to conduct a public opinion survey on relative gambling issues. He pointed out the objective nature of the membership of the council that gave the report validity and a useful basis for action.

The recommendation is that gambling rules be uniform statewide and that a regulatory scheme ensure that gambling be uniform and fair statewide. It also recommends that all forms of gambling be taxed by the state with the revenue being returned to local governments. It also recommends that the provision of licensing revenues be used to treat and help fund programs for addictive gamblers. He discussed other recommendations contained in the report.

Mr. Racicot proposed amendments in section 2, in the definition of bingo where "one number must appear in each square, except for the center square which is considered a free play", should be eliminated from the bill. On page 10, line 13, we are talking about ability to license or regulate or otherwise limit the form of gambling, there is a request to place that particular section after the word chapter on line 15, "or assess or charge any fees or taxes". In other words the industry cannot charge twice. In paragraph 2 on that same page on line 16 where it says where "ordinance or resolution defining certain areas" we request the word "defining" and replace with the word "zoning" so that local governments could not enact an ordinance or resolution that prohibit gambling at all within the entire jurisdiction. The same is true on line 18, subsection three replace the word "defining" with the word "zoning". On page 12, line 11, he explained the application process should be protected from disclosure so after the word "the" that you insert "application or". On page 15, line 20, after the word create replace "or enhance the" and substitute "the". On page 50, line 22, "\$800" should be "\$100".

John Willems, bureau chief of the Video Game Control Bureau in the Department of Commerce, went on record supporting the bill. He pointed out the goal of the gaming advisory council was if this was good for the state.

Jim Durkin, director of the gaming industry association in the state of Montana, testified in favor of the bill. He pointed out that the gaming association has been in support of a good gaming commission along with 75% of the people in the state of Montana. A gaming commission would regulate and license this industry in order to allow you to know who the gamblers are and where their investment money comes from.

We support full disclosure of every part of the industry, he stated.

He mentioned that he received phone calls concerning the unfairness of taking away from the truck stops and stores what was given them in the past year. It is not fair that you tell bingo halls that have keno machines that they must now sell booze to the players in order to keep their machines. There is a sentence in the bill that says "must be imprisoned for at least two years". He pointed out that frightened a lot of people. Also the operators participation is taken away in the process.

Ed Kennedy, Mayor of the city of Kalispell and a member of the Montana Gaming Advisory Council, spoke in favor of the bill. He said the council was formed to review the legislation to correct the technical defects in the statutes, analyze and recommending potential legislation, reviewing jurisdictional authority on gambling matters, reviewing current and potential tax rates, and analyzing gambling in the state of Montana both present and future. The gaming advisory council spent hundreds of hours studying debating and formulating ideas and recommendations that would be beneficial to the state and local governments and to all citizens in the state. He said SB 431 was a good bill and urged passage.

Mignon Waterman spoke on behalf of the Montana Association of Churches. She said that the statewide regulation of gambling is strongly supported (See Exhibit 3).

Phil Strobe, representing the Montana Tavern Association, supported the basic purpose of the bill. He suggested an amendment on section 4, line 12, page 10 that says a local government may not license, regulate or otherwise limit forms of gambling, it would see that was inconsistent with the authority granted the cities over on page 38, section 43, and the last line says the local government may adopt an ordinance defining other hours within that jurisdiction. He pointed out the language in Section 43, 56, 32 should be left all the same to give local governments the power to shut down the hours. If it is to be made state control, then take that out and leave it as it is in Section 4, on page 10, as a matter of policy review. He addressed two minor issues, one on page 54, Section 59, line 9, sports pools should be \$10. One amendment on page 32, section 36, exempting a charitable organization, the commercial industry that participates in the gaming that it is unfair

competition with charitable organizations that do not have to pay the taxes. He suggested striking the charitable organizations.

Al Donahue, a member of the Gaming Advisory Council and represent the tourism industry on that council. He said that he is now involved in gaming in a place called Mac's Casino. Gaming should only exist under the proper rules and regulations. He pointed out that gambling provides an economic stimulant and provides local government with good spending money and would increase if the proper regulatory agency is involved. He stated that this was the medicine that the industry needed to get better.

Andy Poole, director of operations at the Department of Commerce, said the official position is support of SB 431. He briefly talked about the numbers proposed. He said they estimated that local governments would receive approximately 1.9 million dollars each year as a result of passage of this legislation. The cost of administering this bill in addition to what the state currently does would be about \$350,000.

Pious Ehli from Billings, operate the Big B Bingo Parlor, spoke in favor of the bill. He pointed out that on page 44, section 47, that he has not had a beer license for the past six years and had no desire to have one. He said they had keno machines ever since the supreme court ruled that they were legal. The bill would take him out of the business and could no longer have the machines in his establishment. He said this was a good part of his income, he built a building for this reason, spent over \$200,000 building it and improving the property. He said he did not want a beer license. He felt that other people in the business should be able to have the machines without having a beer license. He pointed out that no children were allowed in any bingo parlor in the state but that children were allowed in establishment that sold liquor.

Tex Pate, representing the Montana Auctioneers Association, spoke in favor of the bill. He said they are here to say thank you to section 61 which addresses the calcuttas which auctioneers are involved in for fund raising activities for different organizations.

Terry Will, owner of a bingo business in Helena for the past ten years, said he did not have a beer or liquor license. He said that Section 29 requires a liquor license to run an establishment having live poker games, or Section 44

machines. He does not have a liquor license and yet these machines are about 75% of his income. If this bill passes the way it is he is out of business.

Opponents:

Lynn Seelye, attorney and owner of a bingo parlor, restaurant and lounge in Great Falls, and a member of the Cascade County Tavern Association, testified in opposition to the bill. He commented that the bill was very complex, and that he had had little time to study it. He said he was concerned and wanted to point out to the committee that the industry was presently regulated by a number of agencies and were licensed by a number of agencies. He said they were in favor of regulation, but were concerned about the need for another regulatory body. He said the Department of Commerce, had video licensing with a big budget and a number of personnel, Department of Revenue, Internal Revenue, County Attorney, and yet another bureaucratic agency duplicate the regulations that are already being performed. He pointed out the need to have the industry represented on a gaming commission. One concern was why bingo callers would need to be licensed. He explained that he had approximately 20 employees that work in the bingo room. They alternate and the callers do not handle any money. The balls are popped up in a machine that is closed. Bingo callers are normally unskilled people and there is a large turnover. He said that in a year's time 60-70 initial people that with a licensing fee of \$250 dollars multiplied by 60 people would become a very significant cost. He pointed out another concern the bill proposes 3% of the gross, he said their bingo was paying out almost 90% so 3% of his gross constitutes 33%. Gross is not defined and the payouts are not excluded. He said this would mean he would be taxed a third of his income before he took out operating expenses. He said he strongly objects and this portion should be reconsidered or they will be taxed right out of the business.

Another concern he had was Section 19 about business being done on a cash basis. The problem in an establishment like his is that he has a restaurant, bar, and someone will come in cash a check for fifty dollars. They may spend ten dollars on food, five dollars on drinks and allow the rest on gambling. The problem is the owner would be guilty of a felony and would have to spend two years in prison according to the bill, he said. He said if he cashed a check for somebody he would endanger his whole business and face prison. He pointed out that Section 31, page 30 that the \$300 prize was too much and the people in the industry only

wanted a \$100 limit. He said this is a way that gambling could become a problem to the players.

Randy Reger, vice president of the gaming industry of Montana, spoke in opposition to the bill. He said the state needs sound regulations. He said that gambling was a big incentive for tourists to come into the state. However, one major problem in the gambling commission report stated that they needed a gaming advisory commission. He said this was all in the report and they were 100% for it because people from the industry could be on that board and offer their expertise. He said the bill, as it stood, did not have that advisory commission. He said the bill had terrible penalties in it and that a state gaming commission was needed. He opposed the industry not having any input into the regulation.

Sid Smith, owner of the bingo palace, spoke in opposition to the bill. He said he supported the concept of the gaming commission but the bill cannot be supported unless it had some amendments. He pointed out problems with section 39, page 34, about bingo and keno gross proceeds tax. He discussed the visit to Washington State by the gaming advisory board and read part of the report done regarding Washington's charitable gaming enterprises. He disagreed with the commission making comparison between the Seattle area and Montana. He proposed an amendment to use a chair tax for revenue because the 3% tax was unrealistic for Montana.

Questions From Committee Members:

Senator Brown asked Attorney General Racicot to comment on Calcuttas. Marc Racicot replied that the old definition was no definition at all and virtually allowed for unlimited kinds of gambling in that definition--everything from bookmaking and numbers of one sort or another. The statutes have been amended to reflect the kind of qualifications which make a calcutta pool truly calcutta pool so as to prevent any kind of illegal book making.

Senator Brown asked if this was what the Attorney General had codified. Marc Racicot replied that they have placed into this definition the qualification that were announced earlier in an opinion by Attorney General Mike Greeley.

Senator Brown asked if the change in definition of slot machines provided an expansion in that area. Marc Racicot said the definition was broader, but there previously was a

prohibition against all slot machines. He said the language is more definite and precise.

Senator Brown referred to p. 15, qualification for licensure. He asked if a felon would be prohibited from being licensed. The Attorney General said it would be judged on an individual basis. He didn't know if present law prohibited licensure.

Senator Pinsoneault asked about local control. Marc Racicot described his experience for the past 13 years at the prosecutorial level with gambling across the state of Montana. He realized how much difficulty it poses everyone, from the people operating in the industry, to those in enforcement and regulation. As a consequence, when the bill was initially considered by the Governors Office, they did not feel that they had enough time to consider presenting this bill to the Legislature. However, he felt time should be taken and felt it would result in substantial benefit to Montana.

Senator Pinsoneault asked if this law is passed, would it have an effect on reservation gambling. Marc Racicot replied that there was a negotiating team created by the tribes to reach agreements. He pointed out that there cannot be gambling above and beyond that authorized by the state.

Senator Halligan asked about page 44 of the bill concerning keno machines. He felt exemptions for live keno and bingo could be worked out. He pointed out one reason for containing a provision that linked to the sale of alcoholic beverages is to prevent the proliferation of the machines in convenience store and laundromats or high school lobby. He said they have the potential to raise significant revenue.

Mr. Crafter discussed the three percent of the gross and said it was arrived at after several months of study. The gaming advisory council found a real problem with a flat fee system. Marc Racicot said the three percent gross tax was something that was negotiable. He said they were not out to gouge anyone or make it impossible to operate.

Senator Jenkins asked if it would be appropriate to grandfather people that operate machines without a liquor license. Marc Racicot said it was important to be fair to everyone, rather than do grandfathering.

Senator Van Valkenburg offered two amendments. On page 11, section 6, there is a prohibition in the involvement of an employee of the department directly involved in prosecution and investigation, regulation or licensing from having any connection in an organization that is engaged in gambling. He pointed out that the county attorneys and deputies of the state have a significant role in the state with respect to investigation, prosecution and law enforcement. They are not literally employees of the department, but the committee may want to consider making them such within this bill. Follow the word "department" on line 7, he suggested inserting "or any other person", because the general intent is to avoid conflicts of interest. He said he had an interest in the bill (because of being a director for the Big Brothers and Sisters and their bingo parlor in Missoula). He said a way of resolving the problem in live bingo is by establishing a definition of gross proceeds. He suggested "gross revenue received less prizes paid out". He thought that might help the problem the Great Falls man had with that section of the bill.

Senator Mazurek asked about the definition of a gambling device on page 6, line 18. Marc Racicot said it could be done by use or intended use by any gambling activity. Senator Mazurek asked about the local hours referring to Mr. Strobe and what the response would be to his proposed amendment. Marc Racicot viewed that as unequal time from jurisdiction to jurisdiction and it ought to be standardized across the state. Senator Mazurek asked about his position on the \$300 limit. Marc Racicot said in the area of card games someone more knowledgeable about what is a reasonable figure to expect. If everyone is in agreement that it should be kept at \$100 then it should be. Senator Mazurek asked if it would be acceptable to amend that, if the principal purpose of the establishment is gaming, such as a bingo parlor, then a liquor license would not be necessary but it would still prevent every Circle K from gaming.

Senator Mazurek said he wanted to hear some industry reaction to Senator Van Valkenburg's proposal of defining gross proceeds. Mr. Seelye said the proposal would be better than the bill was right now. He pointed out that the problem is that all his income was already taxed at 33 percent level and 12 percent to the state and additional 15 percent on licensing and the tax dollars are being taxed about 70 percent. He said the prizes paid out should be considered and he should not be forced into a different form of accounting.

Senator Crippen asked Mr. Racicot his feeling on having an advisory commission. Mr. Racicot said he, personally, had taken the opportunity to discuss openly any portion of the bill with any representative of the industry who had spoken to him about it. He said he would have no objections to an advisory council and said an amendment had been prepared to allow for one.

Closing by Sponsor: Senator Gage closed the hearing.

EXECUTIVE SESSION

DISCUSSION OF SENATE BILL 373

Steve Browning presented amendments to the committee (Exhibit 4) and reviewed them. They addressed five concerns: Exemplary business, review, random testing, assurance of privacy and applicant provisions. He had spoken with the nurses lobbyist and the AFT representative, he said, but hadn't been able to talk to the OCAW representative. He said that Montana was the only state in the union where applicants couldn't be tested.

Wilbur Rehman said the amendments didn't address all the issues.

After further discussion, it was decided to postpone action until the next meeting, as several members were absent for the last part of the meeting. In addition, more time to work on amendments was requested.

DISPOSITION OF SENATE BILL 393

Recommendation and Vote: Senator Harp MOVED that Senate Bill 393 BE TABLED. The MOTION CARRIED on a vote of 8 to 2 with Senators Halligan and Yellowtail voting NO.

DISPOSITION OF SENATE BILL 394

Recommendation and Vote: Senator Harp MOVED that Senate Bill 394 BE TABLED. The MOTION CARRIED on a vote of 8 to 1 with Senator Halligan voting NO and with Senator Beck absent.

ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 2-17-89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.



Ex 3

SENATE JUDICIARY
EXHIBIT NO. 3
DATE 2-17-89
BILL NO. SB 431
MONTANA RELIGIOUS LEGISLATIVE COALITION • P.O. Box 745 • Helena, MT 59624

CHAIRMAN CRIPPEN AND MEMBERS OF THE SENATE JUDICIARY
COMMITTEE:

WORKING TOGETHER:

American Baptist Churches
of the Northwest

|

Christian Churches
of Montana
(Disciples of Christ)

|

Episcopal Church
Diocese of Montana

|

Evangelical Lutheran
Church in America
Montana Synod

|

Presbyterian Church (U. S. A.)
Glacier Presbytery

|

Presbyterian Church (U. S. A.)
Yellowstone Presbytery

|

Roman Catholic Diocese
of Great Falls - Billings

|

Roman Catholic Diocese
of Helena

|

United Church
of Christ
Mt.-N. Wyo. Conf.

|

United Methodist Church
Yellowstone Conference

|

I am Mignon Waterman and I am speaking on behalf
of the Montana Association of Churches.

I applaud the Montana legislature, the Department
of Justice and the Gaming Advisory Council for their
open and comprehensive review of gaming in Montana.
During the past eighteen months, the Bureau of Gaming
and the advisory council have held numerous public
meetings that were adequately noticed and that not
only provided opportunity for input but also encouraged
active participation from all interested parties.
The council sought public input through an extensive
survey conducted by Montana State University.

The result is the legislation that is before this
committee today. It provides, for the first time
in Montana's history, a statewide policy on gaming,
statewide regulation of gaming and most of all,
a clear statement of the rules and policies by which
all players in the gaming industry must abide.

I would like to mention several provisions of the
bill that the Montana Association of Churches supports.

First of all, the Montana Association of Churches
strongly supports statewide regulation of gambling.

The bill recognizes the obligation of the gaming
industry to provide assistance to those adversely
impacted by gambling by providing funding for programs
designed to treat persons with habitual gambling
problems. Hopefully this progressive provision
will curb the social costs associated with gambling.
The Montana Association of Churches believes that
early intervention in this area will benefit all
Montanans.

SB431 limits video gaming machines to premises that
have liquor licenses and we support that provision.

I am pleased to see that SB431 reaffirms the current law that mandates that any gambling activity must be on a cash basis. If a person wishes to gamble, it should be a conscious decision that is planned for far enough ahead to allow an individual to determine the amount of money that he/she can afford to gamble. The lure of "winning on the next gamble," combined with alcohol and the opportunity to use a check or credit card provide an unhealthy risk of money that either isn't available or is needed for a family's basic needs such as food, clothes and shelter.

The Montana Association of Churches supports SB431 and once again we wish to express our appreciation for the openness of the review process that led to this legislation and for the opportunity for input from all parties.

I urge a do pass recommendation for SB431.

SB431
2/17/89

WITNESS STATEMENT

NAME Mignon Waterman BUDGET SB431
ADDRESS 530 Hazelgreen
WHOM DO YOU REPRESENT? MT- Assoc of Churches
SUPPORT X OPPOSE _____ AMEND _____
COMMENTS: see exhibit 3

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

EX 9
Lynn M. Seelye
P.O. Box 1673
Great Falls, MT 59403

SENATE JUDICIARY

EXHIBIT NO. 4

DATE 2-17-89

BILL NO. SB 431

June 27, 1988

Becky Erickson
Chairwoman
Taxation Subcommittee/
Gaming Advisory Council
c/o Department of Commerce
Video Gaming Control Bureau
1125 Missoula Avenue
Helena, MT 59620

This correspondence is in response to your letter dated June 10, 1988. Therein you requested input and participation in developing a licensing system on all games associated with legal gambling. This letter sets forth our attention and efforts in the area of live bingo. I recently traveled to Great Falls, Montana and discussed the contents of your letter with the additional bingo operators whose name appear at the end of this letter.

The first item addressed was the extended scope of bingo operations being conducted in the State of Montana. As nearly as possible we determined there presently exist approximately 16 commercial live bingo operations throughout the State. These bingo operations are located in Montana's larger cities and conduct live bingo games on a regular basis each week. In addition, we believe there may be as many as 150 fraternal or service organizations which conduct limited bingo operations on an irregular basis. This group would include fraternal organizations, churches, and charities. It is not possible for us to accurately predict the extent of their participation in live bingo games. However, it appears that such organizations do conduct live bingo games in the larger cities on an ongoing intermittent basis.

Becky Erickson
June 27, 1988
Page 2

With respect to the charging of license fees, it was determined by the individuals present that the licensing fee should be a flat fee paid by individual commercial and charity organizations on an annual basis. The fee should be based on the occupancy rate for the individual establishments. It was determined that a minimum occupancy of 50 people would be in the lowest rate and this would progress by increments of 50 people up to 200 people and over. It was further suggested that the licensing fee increase in increments of \$250. Thus, a commercial or charitable operation who has an occupancy area allowing 100 patrons would be required to pay an annual licensing fee of \$500. If the operator has the capacity to seat 150 people, the license fee would be increased by an increment of \$250 to \$750. It was felt that a flat licensing fee based upon the size or potential size of the gaming operation would be the simplest to administer from both the standpoint of the operator and the standpoint of the State. It was felt that occupancy should be used as the criteria in that most buildings have a permit granted by the City or County in which they are located which states the occupancy allowed on the individual premises.

It was the opinion of the individuals at the meeting that charities should be treated the same as commercial operations. In the event your committee should determine that charities should be granted a more favorable status with respect to licensing, we would suggest that such favorable status carry with it, the restriction that bingo be restricted to participation by members of the particular fraternal organization or charitable community organization conducting the game. It seems unfair to grant charities a favored status when they are in direct competition with private enterprise. This is particularly true when their favored tax treatment and utilization of volunteer help is taken into consideration.

We would like to set forth herein, a couple of comments that came out during the course of discussion by the individuals present at the Great Falls meeting. For members of the gambling advisory committee who are not familiar with bingo operations, we would like to point out the following:

1. Most bingo games carried on by commercial operations utilize hard cards. These are cards which allow the players to clear the board after each game and use the board on a repeated basis during the period of time they participate in the bingo session.

Becky Erickson
June 27, 1988
Page 3

Bill NO. 4, p. 3
DATE 2-17-89
BILL NO. SB 431

2. The bingo balls are picked by a mechanical devise and are placed before TV monitors scattered throughout the bingo room. The individual caller has no control over the ball selection in question. In addition, the caller does not handle the collection of monies, nor account for the prize. The bingo caller occupies a distinct and separate status which is monitored not only by co-workers, but also by players and TV monitors and cameras located throughout the bingo hall.

3. To the best of knowledge by the individuals present, there has been no violations of regulations set forth under the recently enacted statutory provisions concerning payouts to customers in conjunction with the conduct of live bingo games. To a large extent this is due to the high visibility of the caller and the separation of functions. We feel strongly that very little additional regulation needs to be enacted in order to ensure the safe conduct of live bingo operations. In particular we want to emphasize that bingo callers' functions are completely separate and distinct from those undertaken by a dealer in a poker or 21 game for example.

4. The conduct of a live bingo game involves a number of employees. This includes the caller, the individuals who are required to collect money (bingo runners), individuals who are present to help individual players, and individuals who account for the money and pay off on each game. There is a fairly substantial turnover in the employment force during the course of a year and it would be extremely time consuming and expensive to attempt to license each individual employee which helps the operator carry on his bingo game. Furthermore, the successful bingo game requires a trade-off of bingo callers on a continuous basis. Thus, it would be nearly impossible for the bingo operator to license one or two callers to the exclusion of the balance of his workforce. With respect to charitable organizations, most of the calling is done by volunteers and the licensing of such volunteers would be extremely onerous.

5. We feel that the \$100 payoff limitation per game should be continued.

6. We do not feel seasonal licenses should be issued. Here again, such licenses are more likely to be utilized by charities or fraternal organizations and, once again, would

Becky Erickson
June 27, 1988
Page 4

allow them to operate and compete within the State at an advantage to private enterprise. Where charities are competing for the identical dollars against private enterprise, we feel they should compete on the same basis and not be given an artificial advantage due to State regulatory measures.

We would welcome and invite any of the Advisory Council to meet with us personally or to observe the conduct of our games. We feel there are some misconceptions as to the profitability and the operation of bingo enterprises. We are proud of our industry and feel the participants are getting prizes represented by the operators. Because of the high visibility of the conduct of the game, we feel the games are being correctly monitored by the players and co-workers in conjunction with TV cameras. Should you desire to visit any of our individual operations or to meet with us with any further questions, please do not hesitate to call any of the individuals whose name appears in conjunction with this correspondence. We thank you in advance for the opportunity to give you our opinions and input concerning the potential adoption of further regulation and licensing of live bingo games.

Very truly yours,

"Ole" Ehli
Little Nevada Casino
1413 - 13th Street West
Billings, MT 59102

Sid Smith
Bingo Palace
2425 Highway 12 East
Helena, MT 59601

Lynn M. Seelye
Sailboat
2401 - 12th Avenue South
Great Falls, MT 59405

Tom Heisler
Bingo Bonanza
2412 - 11th Avenue South
Great Falls, MT 59405

bb

cc Morty Boyd
2401 - 12th Avenue South
Great Falls, MT 59405

DATE

Feb. 17, 1989

COMMITTEE ON

Judiciary

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppos
Robert Kellard	Gouverneur Office	431		
Brenda Rogers	61A	431		X
Robert Kellard	SAILBOAT	451		X
Ursula Thurston		433	X	
Carol Mosher	Mt. Little Women	431	X	
Marie Keegan		433	X	
Pius de Ehlis	Big B Bingo Betting	431		X
Pat Martin	Big Bros & Sisters	431		
Linda Lefavour	Big Bros & Sisters	431		
Terry G. Will	S W's Bingo	431		
Boris Durkes	MTA	431	X	
Steve Manderville	Self			
Tex Fote	M.A.A.	431		
MICHAEL P. CETRARO	PRIVATE BUSINESS	431	X?	
Tom Lehman	Private Bus	431	X	
Bob Smith	Dept. of Justice	431		
Condy Poole	Dept. of Commerce	431	X	
John Ed Kennedy Jr.	Mayor of Kalspell	431	X	
Brad Schertz	Gaming Adv. Council	431	X	
John Wilens	Dept. of Commerce	431	X	
MIKE McMEEKIN	Gaming Advisory Council	431	X	
Tan Van Riper	Self	425		X
Brenda Nordlund	MT Women's Lobby	433	X	
STEPAN KALCZYK	COLUMBIA FALLS ALUMINUM CO PLUM GREEK T.M. CO	425	X	
George Wood	Mt. Self Insurance Assoc	425		X
Made Bach	Self	425		X

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bruce Crippen, on February 17, 1989 at
2:00 p.m. in Room 325.

ROLL CALL

Members Present: Chairman Bruce Crippen, Vice Chairman Al Bishop,
Senators Tom Beck, Mike Halligan, John Harp, Loren Jenkins and
Senator Yellowtail.

Members Excused: Senators Joe Mazurek, and Dick Pinsoneault

Staff Present: Staff Attorney Valencia Lane and Committee
Secretary Rosemary Jacoby

EXECUTIVE SESSION

SENATE BILL 434

Discussion: It was the consensus of the committee that the bill
was worthy of a great deal of study and it was recommended that
more research be done.

Recommendation and Vote: Senator Halligan MOVED that Senate Bill
434 BE TABLED with the stipulation that a detailed study be made
during the interim and a bill be drawn up for the next session of
the legislature. The entire committee agreed. Beata Galda,
Department of Highways and Marcella Sherfy agreed on the worthiness
of the bill's subject matter. Marcella Sherfy, State Historical
Society, felt a strong statement must be made to the tribes
indicating this action.

The TABLING of the bill CARRIED UNANIMOUSLY. Senator Crippen felt
the committee all agreed with the scope and purpose of the bill,
but felt it deserved more time, rather than being hurriedly passed
out with the possibility of missing important points.

SENATE BILL 373

Recommendation and Vote: Senator Halligan MOVED that Senate Bill 373 BE TABLED. The MOTION CARRIED on a vote of 4 to 3, the YES votes being Senators Bishop, Brown, Halligan and Yellowtail. The NO votes were Senators Jenkins, Harp and Crippen.

After more discussion, Senator Halligan MOVED that Senate Bill 373 BE RECONSIDERED. The MOTION CARRIED UNANIMOUSLY. The committee decided, in deference to committee member Senator Pinsoneault, to act on the bill. He deserved an opportunity to defend the bill on the floor of the Senate, and would be able to if the bill came out with a committee recommendation.

Senator Halligan MOVED that Senate Bill 373 DO NOT PASS AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

SENATE BILL 431

Amendments and Vote: Senator Harp MOVED the RACICOT AMENDMENTS. (Exhibit 1) The MOTION CARRIED UNANIMOUSLY.

Senator Halligan MOVED that Senator Van Valkenburg's proposed amendment defining "gross proceeds" on page 6, line 25 be adopted. The MOTION CARRIED UNANIMOUSLY. For remaining amendments, see Exhibit 2, Valencia Lane's notes.)

Senator Halligan MOVED that Senator Van Valkenburg's suggested amendment on page 11, line 7 be adopted ("or any other person"). The MOTION CARRIED UNANIMOUSLY.

After some discussion, Senator Jenkins MOVED Phil Strobe's suggested amendments regarding hours of operation. The MOTION CARRIED UNANIMOUSLY.

Senator Halligan MOVED an amendment stating, if the principal purpose of an establishment is gaming, they do not have to have a liquor license i.e. a bingo parlor. The MOTION CARRIED UNANIMOUSLY.

Senator Harp MOVED an amendment on page 30, line 24 and on page 35, line 15, to strike "\$300" and insert " \$100". The MOTION CARRIED on a vote of 4 to 3. The YES votes Senators Bishop, Crippen, Brown and Yellowtail. The NO votes were Senators Jenkins, Halligan and Beck.

Senator Harp MOVED an amendment on page 6, line 21, inserting a definition as follows: "used or intended for use in any gambling activity". The MOTION PASSED UNANIMOUSLY.

Senator Harp MOVED an amendment on page 45, line 5, striking "20 or any combination..." and inserting "5 poker and 15 keno machines". The MOTION FAILED by a vote of 3 to 4. The YES votes were Senators Beck, Harp and Crippen. The NO votes were Senators Jenkins, Yellowtail, Halligan and Bishop.

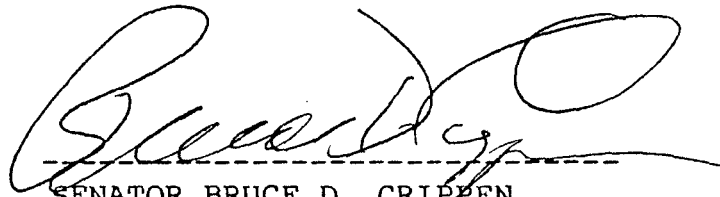
Senator Harp MOVED an amendment on page 34, line 9, striking "3%" and inserting "5%". The MOTION CARRIED by a vote of 4 to 3 with Senators Bishop Beck, Yellowtail and Harp voting YES, and Senators Halligan, Jenkins and Crippen voting NO.

Senator Harp MOVED an amendment on page 54, line 9, striking "1 and inserting "\$10". The MOTION CARRIED UNANIMOUSLY.

Senator Harp MOVED Senate Bill 431 DO PASS AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment at 3:00 p.m.



SENATOR BRUCE D. CRIPPEN
Chairman

BDC:RJ

ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

E. McC. Session

Date 2-17-89
2:00 to 3:00 p.m.

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK		✓	
SENATOR PINSONEAULT		✓	
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

February 17, 1987

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration SB 431 (first reading copy white), respectfully report that SB 431 be amended and as so amended do pass:

(See attached)

AND AS AMENDED DO PASS

Signed: _____

Bruce D. Clippert, Chairman

SEN0431.217

EX.1

SENATE JOURNAL

EXHIBIT NO. 1

2-17-89, 2:00p.m. mtg. DATE 2-17-89

SB 431

BILL NO. SB 431

Amendments by Marc Racicot

1. Page 5, lines 17 and 18.

Following: "square" on line 17

Strike: remainder of line 17 through
"play" on line 18

2. Page 10, line 13.

Following: "chapter"

Insert: " or assess or charge any fees or taxes

3. Page 10, lines 16 and 18.

~~Page~~ Following: "resolution"

Strike: "defining"

Insert: "zoning"

4. Page 12, line 11.

Following: ~~the~~ "the"

Insert: "application or"

5. Page 15, line 20.

Following: "create"

Strike: " or enhance the dangers"

Insert: "a danger"

6. Page 50, line 22.

Following: "\$100"

Strike: "a land or \$800"

SB 431

adopted

① Racicot amendment adopted (see attached)

adopted

② P 6, l 25 "gross ^{define} proceeds" Van V.

adopted

③ P 11, l 7 Van V.

adopted

④ STROPE's amendment Re: hours of op.

P 31, l 8-11	§ 32	} strike local law.
P 38, l 21-23	§ 43	
P 51, l 19-22	§ 56	

adopted

⑤ P 44, l 6. + 9
 P 29, l 4 + 5

... or a person who operates an establishment
 for the PP purpose of gaming

adopted

⑥ P 30, l 24. S: 300
~~P 35, l 15~~ I: 100

adopted

⑦ P 6, l 21
 "used or intended for use in any gambling activity"

adopted

⑧ P 45, l 5 S: 20 "any comb" I: 5

⑧ P 34, l 9 S: 3%
 I: 5%

adopted ⑨ P 54, l 9.
 Change #1 to #10

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 2-17-89 Senate Bill No. 431 Time #1
p.m.

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK <i>a.</i>		
SEN. BROWN	✓	
SEN. HALLIGAN	✓	
SEN. HARP	✓	
SEN. JENKINS	✓	
SEN. MAZUREK <i>a</i>		
SEN PINSONEAULT <i>a</i>		
SEN. YELLOWTAIL	✓	
SEN. CRIPPEN	✓	

Rosemary Jacoby
 Secretary

Sen. Bruce Crippen
 Chairman

Sen. Amend #1

Motion: *Harp moved the Racist amendments (see Ex.1)*
Motion carried unanimously.

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 2-17-89 Senate Bill No. 431 Time #2
p.m.

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK	✓	
SEN. BROWN	✓	
SEN. HALLIGAN	✓	
SEN. HARP	✓	
SEN. JENKINS	✓	
SEN. MAZUREK <u>a</u>		
SEN PINSONEAULT <u>a</u>		
SEN. YELLOWTAIL	✓	
SEN. CRIPPEN	✓	

Rosemary Jacoby
 Secretary Amend # 2

Sen. Bruce Crippen
 Chairman

Motion: Sen. Halligan moved Sen. Van Valkenburg amend-
ment defining "gross proceeds" - Unanimous
(See EX.2)

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 2-17-89 Senate Bill No. 431 Time #3
p.m. mtg.

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK	✓	
SEN. BROWN	✓	
SEN. HALLIGAN	✓	
SEN. HARP	✓	
SEN. JENKINS	✓	
SEN. MAZUREK		
SEN. PINSONEAULT		
SEN. YELLOWTAIL	✓	
SEN. CRIPPEN	✓	

Rosemary Jacoby
 Secretary

Sen. Bruce Crippen
 Chairman

Amend #3

Motion: Sen. Halligan moved Sen. Van Valkenburg's suggested
amend. on p. 11, line 7 "or any other person".
Yenamine.

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 2-17-89 Senate Bill No. 431 Time #4

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK	✓	
SEN. BROWN	✓	
SEN. HALLIGAN	✓	
SEN. HARP	✓	
SEN. JENKINS	✓	
SEN. MAZUREK <i>a</i>		
SEN. PINSONEAULT <i>a</i>		
SEN. YELLOWTAIL	✓	
SEN. CRIPPEN	✓	

Rosemary Jacoby
Secretary *Amend. # 4*

Sen. Bruce Crippen
Chairman

Motion: *Sen. Jenkins moved Phil Strapac suggested
amendment regarding "hours of operation"*
Unanimous

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 2-17-89 Senate Bill No. 431 Time #5
2 p.m. mtg.

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK	✓	
SEN. BROWN	✓	
SEN. HALLIGAN	✓	
SEN. HARP	✓	
SEN. JENKINS	✓	
SEN. MAZUREK		
SEN. PINSONEAULT		
SEN. YELLOWTAIL	✓	
SEN. CRIPPEN	✓	

Rosemary Jacoby
 Secretary

Amend # 5

Sen. Bruce Crippen
 Chairman

Motion: Sen. Halligan moved stating that, if the
principal purpose of an establishment is
gaming (i.e. bingo or poker), the owner
does not have to have a liquor license.

Unanimous

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 2-17-89 Senate Bill No. 431 Time #6
2 p.m. mtg.

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK		✓
SEN. BROWN	✓	
SEN. HALLIGAN		✓
SEN. HARP		
SEN. JENKINS		✓
SEN. MAZUREK		
SEN. PINSONEAULT		
SEN. YELLOWTAIL	✓	
SEN. CRIPPEN	✓	

4 to 3

Rosemary Jacoby
Secretary Amend # 6

Sen. Bruce Crippen
Chairman

Motion: Senator Harp moved:
page 30, line 24 and page 35, line 15, strike
\$300 and insert \$100.

Motion carried 4-3

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 2-17-89 Senate Bill No. 431 Time # 7
2 p.m. mtg.

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK	✓	
SEN. BROWN	✓	
SEN. HALLIGAN	✓	
SEN. HARP	✓	
SEN. JENKINS	✓	
SEN. MAZUREK	a	
SEN. PINSONEAULT	a	
SEN. YELLOWTAIL	✓	
SEN. CRIPPEN	✓	

Rosemary Jacoby
Secretary Amend. # 7

Sen. Bruce Crippen
Chairman

Motion: Sen. Harp moved that on p. 6, line 21, insert
"used or intended for use in any gambling
activity." Passed Unanimously

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 2-17-89 Senate Bill No. 431 Time #8
2 p.m. mtg.

NAME	YES	NO
SEN. BISHOP		✓
SEN. BECK	- ✓	
SEN. BROWN		
SEN. HALLIGAN		✓
SEN. HARP	- ✓	
SEN. JENKINS		✓
SEN. MAZUREK		
SEN. PINSONEAULT		
SEN. YELLOWTAIL		✓
SEN. CRIPPEN	- ✓	

3. 4

Rosemary Jacoby
 Secretary

Sen. Bruce Crippen
 Chairman

Amend #.

Motion: Sen. Harp moved p. 45, line 5 striking
"20 or any combination" and inserting
"5 pokers and 15 keno machines."
Motion failed. 3 to 4

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 2-17-89 Senate Bill No. 431 Time # 9
2p.m. mtg

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK	✓	
SEN. BROWN		
SEN. HALLIGAN		✓
SEN. HARP	✓	
SEN. JENKINS		✓
SEN. MAZUREK		
SEN. PINSONEAULT		
SEN. YELLOWTAIL	✓	
SEN. CRIPPEN		✓

4 to 3

Rosemary Jacoby
 Secretary

Sen. Bruce Crippen
 Chairman

Amend. #8

Motion: Senator Harp moved exp. 34 line 9 striking
"3%" and inserting 5%. Carried with a
vote of 4 to 3

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 2-17-89 Senate Bill No. 431 Time #10
2p.m. mtg

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK	✓	
SEN. BROWN	✓	
SEN. HALLIGAN	✓	
SEN. HARP	✓	
SEN. JENKINS	✓	
SEN. MAZUREK		
SEN. PINSONEAULT		
SEN. YELLOWTAIL	✓	
SEN. CRIPPEN	✓	

Rosemary Jacoby
Secretary

Sen. Bruce Crippen
Chairman

Motion: Sen. moved that on p. 54, line 9
strike \$1 and insert \$10.

Carried unanimously.

ROLL CALL VOTE

SENATE COMMITTEE

JUDICIARY

Date 2-17-89 Senate Bill No. 431 Time 2:50p.m.
p.m. mtg. #11

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK	<i>temp. absent</i>	
SEN. BROWN	✓	
SEN. HALLIGAN	✓	
SEN. HARP	✓	
SEN. JENKINS	✓	
SEN. MAZUREK	<i>absent</i>	
SEN. PINSONEAULT	<i>absent</i>	
SEN. YELLOWTAIL	✓	
SEN. CRIPPEN	✓	

7.

Rosemary Jacoby
Secretary

Sen. Bruce Crippen
Chairman

Motion: Senator Harp moved De Pass as Amended
Motion Carried unanimously

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bruce Crippen, on February 28, 1989, at 10:00 a.m. in Room 325.

ROLL CALL

Members Present: Chairman Bruce Crippen, V. Chairman Al Bishop, Senators Tom Beck, Bob Brown, John Harp, Mike Halligan, Loren Jenkins, Joe Mazurek, R. J. Pinsoneault and Bill Yellowtail.

Members Excused: None

Members Absent: None

Staff Present: Staff Attorney Valencia Lane and Committee Secretary Rosemary Jacoby

Announcements/Discussion: There were none.

HEARING ON HOUSE BILL 5

Presentation and Opening Statement by Sponsor:

Representative Eudaily was unable to be present for the hearing. William Mutch, legislative intern for Senator Crippen, opened the hearing reading a prepared statement to the committee (Exhibit 1).

List of Testifying Proponents and What Group they Represent:

Greg Petesch, Legislative Council

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Greg Petesch explained the reason for Section 83. In preparing the bill for this session as code commissioner, he said, he ran across Section I, 11-101-2 (g) ii which said: "Given specific instructions by another bill, the code commissioner may correct

EXECUTIVE SESSION

SENATE BILL 431

Amendments and amendment information:

Ex. 4 - MTA Amendments to SB 431

Ex. 5.- Memo to Senator Gage from Jon Meredith,
Investigations & Enforcement Division
Subj: Concerns re SB 431

Ex. 6 - Dept. of Justice (Attorney General) Amendments

Ex. 7 - Amendments to SB 431, requested by Senator Halligan
(SB043102.avl)

Ex. 8 - Amendments to SB 431, second reading copy (yellow)
clerical amendments (SB 043103.avl)

Senate Bill had been rereferred to committee for further amendment. There was a considerable amount of discussion regarding the amendments. Judy Brown of the Attorney General's office said that the substantive amendments were Numbers 4, 9 and 20 of Exhibit 6. She said #4 provided that funds were to be sent to the department, but gave no authority to assist in collection. There would be a subsection added which would give authority for collection and disbursement, she said.

She continued saying Number 9 amended p. 33 on the yellow bill. It dealt with raffles. It would need rule-making authority, she said. The original idea was that no one would be allowed to hire someone to run a raffle, but this makes sure that the people running it gets none of the profits. Charitable organizations are being exempted from licensure, but full time operations such as the Big Brothers and Sisters have in Missoula are something different, said Senator Mazurek. They are set up like a commercial business he said.

Number 20 applied on p. 54. Rob Smith said he wanted that consistent regardless what figures were settled on. Senator Gage commented that Mark Racicot also wanted it to be consistent. Senator Harp said this could expand gambling. Senator Brown said the main purpose of the bill was to get better control, rather than expand or diminish it. He said he would prefer using \$1 and \$100 for the figures.

Amendments and Votes: Senator Beck MOVED the Department of Justice first 19 amendments presented by the Department of Justice, excluding 9 and 20. The MOTION CARRIED UNANIMOUSLY.

Senator Beck MOVED #20. Senator Yellowtail MOVED a substitute motion on page 54, line 20, strike \$10, and insert \$1. The MOTION CARRIED by a vote of 6 to 4, with Senators Beck, Halligan, Jenkins and Crippen voting NO.

Discussion: Senator Mazurek called attention to the tavern association amendments (Exhibit 4) dealing with establishments with poker and bingo machines where there is no liquor license. He thought that would be opening the door to expansion of more establishments. He wanted the grandfather clause to say the establishment must have been in business on January 1. He said that was the reason for the past tense.

Senator Crippen asked for Valencia's explanation of Section 47, p. 44. She said it recommends striking the capitalized language down to line 19 and inserting who "operated" an establishment "prior to January 1, 1989."

Amendments and Votes: Senator Brown MOVED the MTA Amendment down to line 19 as edited by Valencia changing the language to: "or who operated an establishment prior to January, 1989 for the principle purpose of gaming". The MOTION CARRIED UNANIMOUSLY.

Senator Brown further MOVED to delete the amendment on p. 29, line 11 as identical amendments had already been moved and carried. The MOTION CARRIED UNANIMOUSLY.

Senator Halligan MOVED the amendment to take away local control. The MOTION CARRIED by a vote of 6 to 4 with Senators Brown, Harp, Mazurek and Yellowtail voting NO.

Senator Yellowtail MOVED to amend on p. 54, line 20, to strike "10" and insert "1". The MOTION CARRIED by a vote of 6 to 4 with Senators Beck, Halligan, Jenkins and Crippen voting NO.

Senator Mazurek MOVED the amendment on P. 45, line 10 to delete "20" and insert "10". He WITHDREW the motion.

Senator Brown MOVED a substitute MOTION for 5 poker and 15 keno machines, the same as present law. The MOTION FAILED on a 5 to 5 vote, with Senators Beck, Halligan, Jenkins, Pinsoneault and Crippen voting NO.

Senator Beck MOVED clerical amendments (Ex. 8). The MOTION CARRIED UNANIMOUSLY.

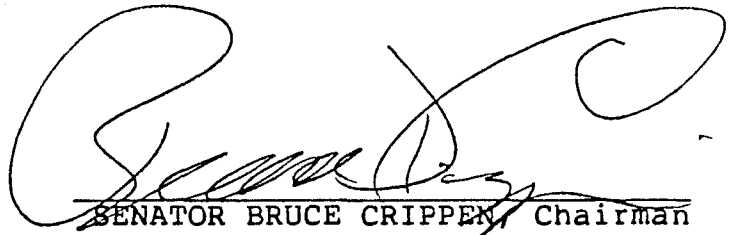
Senator Halligan MOVED the Advisory Committee amendments for 2 - 2- 3. The MOTION CARRIED UNANIMOUSLY.

Valencia commented that the entire 43102.avl amendments had passed.

ANNOUNCEMENTS: Senator Crippen announced that the Judges Confirmation hearings would take place on Friday, followed by a luncheon.

ADJOURNMENT

Adjournment At: 12:25 p.m.



SENATOR BRUCE CRIPPEN, Chairman

BDC/rj

minrj.228

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 2-28-89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

1. NEW SECTION. Section 29.

Page 29, Line 11

Following: "WHO"

Strike: "OPERATES"

Insert: "operated"

Following: "ESTABLISHMENT"

Insert: "prior to January 1, 1989,"

2. Section 47, Page 44, Line 17.

Following: "WHO"

Strike: "OPERATES"

Insert: "operated"

Following: "ESTABLISHMENT"

Insert: "prior to January 1, 1989,"

3. Section 47, Page 45, Line 17.

Following: "part."

Strike: Remainder of subsection (3).

4. ~~Section 59, Page 54, Line 22~~

~~Following: "value of"~~

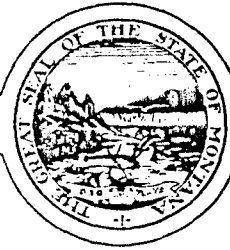
~~Strike: "\$100"~~

~~Insert: "\$1,000"~~

may not need

Montana Tavern Association
 900 N. Montana Avenue
 P. O. Box 851
 Helena, MT 59624
 Ph: 442-5040

DEPARTMENT OF REVENUE



STAN STEPHENS, GOVERNOR

MITCHELL BUILDING

STATE OF MONTANA

HELENA, MONTANA 59620

February 28, 1989

MEMORANDUM

TO: Senator Delwyn Gage

FROM: Jon A. Meredith, Administrator
Investigations & Enforcement Division

SUBJECT: SB431

The Director's Office has advised us to make our concerns with SB431 known to you and to the Attorney General. We have therefore enclosed copies of comments on the introduced bill and the amended second reading version. Entirely at your convenience we would like to briefly present our views on this legislation from organizational, cost comparative and enforcement perspectives.

cc: Attorney General Marc Racicot
Steve Bender, DOR Deputy Director
Rick Day, DOR Investigations Bureau Chief
John Willems, DOC Video Gaming Bureau Chief

SB431 INVESTIGATIVE AND ENFORCEMENT CONCERNS

General concerns

- 1) The legislation would remove all "duly authorized department representative" language which allows the Department of Commerce to contract with the Investigations Bureau for video gaming enforcement services. Video Gaming now provides 36% of bureau funding. Loss of this funding would affect 1/3 of bureau staff (7 of 19 positions) and result in a \$245,000 reduction of the Division's budget. As written the bill provides for a reorganization which would authorize transfer of functions from the Department of Commerce to the Department of Justice but fails to acknowledge any needed transfer from the Department of Revenue (Section 73). Loss of funds without position transfer would translate into present staff losing their jobs.
- 2) The legislation would more directly tie gambling to alcoholic beverage licensed premises yet separate liquor and gambling investigative functions between the Departments of Revenue and Justice. The Investigations Bureau already maintains nine field offices throughout Montana. These investigators have the only concentrated gambling, liquor, and public assistance fraud experience in the state. The separation of these functions would:
 - a) Create separate regulatory units for the same businesses. Liquor investigators would essentially follow on the heels of gaming people or vice versa. Duplicate filing would be needed along with multiple record checks and duplicated investigations when applicants apply for gaming and alcohol beverage licenses;
 - b) Trained staff would be lost to one or more of the three areas;

- c) Service or production losses in liquor and public assistance fraud would be inevitable as staffing fell below 1973 levels;
 - d) Employee career ladder and field supervision availability would be reduced;
 - e) Costs of Department of Justice gambling enforcement would be \$200,000 to \$300,000 more for less service than if Revenue continued to supply enforcement services.
- 3) The bill would make the Department of Justice the single unit responsible for policy, licensing, administration, and enforcement of gambling laws in the state of Montana. Such a structure would create a partnership between industry and the regulator. The natural tendency is for the regulating agency to become increasingly sympathetic with the industry and supportive of its success. The more successful the industry the more tax dollars generated. As a result enforcement of the law becomes a secondary concern. The beginnings of such a partnership are most directly evident in this legislation by:
- a) the proposal to eliminate all forms of local licensing;
 - b) the proposal to raise the maximum pot limit to \$300;
 - c) the proposal to increase the bingo prize to \$300.
- It is in the state's and public's interest to keep the licensing, taxation, and enforcement agencies independent. A separate gambling enforcement unit is only concerned with the protection of the public, fairness of gambling in Montana, and the enforcement of the state laws. Such enforcement should be accomplished in a courteous and fair manner with the public interest of the foremost concern.
- 4) The law would exempt charitable bingo and keno operations from licensing, taxation and other limitations placed on

profit-taking entities. The legislation as introduced does not appear to recognize the possibility that a professional gambling manager is often employed in charitable situations. This gambling manager becomes a private operator who splits a percentage with the charitable organization. In many jurisdictions charitable organizations run the largest gambling operations. The legislation should provide for full licensing and taxation in the event the charitable operation employs a gambling manager. A separate licensing and background investigation of managers should be required to insure the integrity of the organization.

- 5) Felony and misdemeanor criminal offenses would be created and rely on establishing "purposely or knowingly" as a critical (state of mind) element to charge the offense. This element may be relevant to felony crimes but misdemeanor violations of gambling statutes should be defined as absolute liability violations. The state of mind in a gambling offense is often difficult to prove. Proving state of mind is also not cost effective when related to a misdemeanor (45-2-104, MCA).
- 6) The law would remove all local licensing authority except for the inconsistent requirements' for county commissioners to regulate raffles and for local jurisdictions to issue of temporary keno caller licenses. The need for consistent qualifications, licensing requirements, and regulation is recognized. However, the elimination of the local government's authority to add on license fees would eliminate a source of revenue which often supports local jobs. The proposed legislation would also negate a local governing body's ability to impose additional license fees as they choose to further restrict gambling in their communities.
- 7) The legislation would remove all statutory video gaming machine specifications and entrust the entire process to

Department of Justice rulemaking. The need to remove existing statutory specifications from the law is questionable. From an enforcement standpoint, state law is more readily accepted by the public and by gaming entities than administrative rule. In addition, state law is not as easily changed as a rule and thus provides more consistency for enforcement. If these specifications have been established by the legislature, it seems appropriate that rulemaking is only needed in instances where clarification is necessary. These specifications have been in use, in some cases, for four years and the industry has still seen net profits in the area of \$40 million. In addition, it is in these sections of law that the state is required to inspect each machine.

- 8) It may be best to indicate in the public policy statement that bingo and keno are recognized as two separate and distinct games. The proposed legislation appears to define them as separate games, but in the light of past Supreme Court decisions (defining bingo and keno as the same game) it seems important for the legislature to clearly define bingo and keno as two separate and distinct games.
- 9) The legislation would provide no general right of inspection for gambling enforcement personnel. The statutory authorization to examine premises, books, records, and gambling devices is critical to effective enforcement.

SB431 refers to state inspection three times:

- a) Page 12, Line 8-12 "...provides for a procedure for inspection of records;
- b) Page 34, Line 20-23 "At all times during the business hours of the licensee the records must be available for inspection by the department." (Bingo gross proceeds);

- c) Page 50, Line 1 "...Records must at all times during the business hours of the licensee be subject to inspection by the department." (video gaming tax).

Although the legislation makes (3) references to inspection, no section of law clearly establishes the state's right to immediate access and inspection. Of greatest concern is the proposal's failure to mention any inplay inspection requirements relative to video gaming machines.

- 10) The proposed legislation does not indicate an effective date. Prior experience has demonstrated a need for a preparation period prior to the effective date of the act. For example: the reorganization, rulemaking authority, and temporary funding should be effective upon passage and approval with the effective date of the act October 1, 1989. This allows for time to develop needed rules, forms, hire staff, and organize in preparation for enforcement of the act's provisions. It also allows the industry time to adjust to new requirements and apply for and receive licenses.

Specific language concerns:

- 1) Section 3, Page 5, Line 18 - The definition of "Bingo" does not include language relating to "randomly selected numbers which are matched with similar numbers on a card" (emphasis ours).
- 2) Section 3, Page 9, Line 24 - The definition of a slot machine includes devices solely operated by skill. Some element of chance is necessary in the operation of a device to make it a gambling device. Consequently, this definition may be too broad.

The slot machine definition does not include an exemption for merchandise vending (Pac Man and pop) machines or other video games. Montana law currently exempts merchandise vending machines from the definition of slot machines (23-5-101, MCA).

- 3) Section 4, Page 10, Line 10 - This section removes the local licensing and regulatory authority. The question is why is it necessary to remove local governments' authority and ability to add on license fees or provide enforcement as the community feels is justified.
- 4) Section 5, Page 10 - The Department of Justice is designated a criminal justice agency and agents of the Department of Justice are granted peace office status to regulate gambling. This language removes all authorization needed for the Department of Revenue's current contract and makes no direct reference to other peace officers' authority in gambling enforcement. It would appear to remove all direct gambling enforcement authority except for the Department of Justice.
- 5) Section 8, Injunction and Other Remedies, Page 13, Line 10 - This section allows the state to place a licensee on probation but does not describe what probation is.
 - a) Line 21 requires fines imposed by the District Court be collected by the Department instead of by the District Court. It seems more appropriate for the District Court to collect their own fines and in fact this would be contrary to most court procedures.
 - b) Page 14, Line 7 provides for a person who fails to pay a fine to forfeit his right to license gambling devices in the state. Some additional penalty such as contempt of court or jail time seems necessary in the event the defendant is not a licensee or the state will effectively be left without a method to actually impose sanctions.

- 6) Section 10, Page 16, Line 6 - Wording should be added to require the applicant for a gambling license to make a full financial disclosure.
- 7) Section 11, Page 17, Line 10 - This section restricts the Department from charging any fee for an operator's license. At a minimum, a small processing fee should be charged.
- 8) Section 15, Page 22, Line 3 - The legislation would prohibit all forms of "public" gambling not specifically authorized. The word "public" has been inserted in language that otherwise appears to echo the Montana constitution. Determining/defining "public" may create enforcement problems.

Page 9, Lines 14-21 - The word "public" is defined as a place and is itself used in the definition.

"(a) a place, building, or conveyance to which the public has access..."

"(b) a place of public resort,..."

The purpose of a definition is generally to describe a noun and the word being defined is never used in the definition itself. In SB431 "public" is primarily used as an adjective. Again at Page 22, Line 3, "public" gambling not specifically authorized is prohibited. The constitution does not use the word "public" but makes the same prohibitive statement. It appears the defined term should be revised (for instance "public premises") or the use of "public" eliminated where it is descriptive rather than a place.

- 9) Section 19, Page 23, Line 17 - This section restricts gambling to a cash basis.

- a) it does not state if chips can be substituted for cash;
 - b) this section should create a felony offense if credit is extended in excess of \$300.
- 10) Section 20, Page 24, Line 2 - The language should be clarified to insure both the minor and the licensee are accountable.
- 11) Section 21, Page 25, Line 2 - Montana law should require all gambling device shipments to other states to comply with 15 USCS Section 1171, Section 1172, and Section 1173. This insures Montana does not become a haven for those who wish to ship illegal devices into other states.
- 12) Section 23 (and others), Page 26, Line 20 - All misdemeanor gambling violations should be specified as absolute liability sections of the Montana Code and the language "knowingly or purposely" should be removed from misdemeanor violations. For example: establishing a person "knowingly" placed an unlicensed machine may be somewhat difficult.
- 13) Section 28, Page 28, Line 17 - This section provides for a card game dealer's license and requires the licensed dealer to have the license on his person. The dealer should be required to display this license on his person. This would promote public confidence and make it easier for gambling enforcement officers to determine if dealers are, in fact, licensed. It places the burden on the dealer and the house to identify dealers rather than on the enforcement officer or the public.
- 14) Section 31, Page 30, Line 24 - The proposed legislation raises the prize for an individual live card game from the current \$100 limitation to \$300. Part of the justification for this increase is rumored to be the lack of enforcement of the

\$100 pot limitation in many areas of the state. However, in Missoula and to a lesser extent in Flathead County, the \$100 pot limitation is enforced and has been for some time. This essentially rewards gamblers who have openly violated Montana law and expands gambling in Montana.

- 15) Section 32, Page 31, Line 8 and Section 47, Page 45, Line 6 - These sections appear to indicate the state would be enforcing local ordinances relating to live card games and machine hours and machine number limitations.
- 16) Section 33, Page 31, Line 18 - This section concerns the rake and requires the rake be taken in an obvious manner. The law would be better worded if it stated "...in an obvious manner by posting the rake prior to removing the chips or cash from the table". This would allow players to see how much and where the rake is going.
- 17) Section 36, Page 32, Line 16 - This section contains a broad exemption for charitable organizations from licensing and taxation. This is a critical area. The legislation should at least contain an exception in the event a charitable organization obtains a manager to run the gambling operation on a percentage split basis. In these instances it is important state law clearly specify any such arrangement will be subject to licensing, taxation, and required licensing of a gaming manager. Montana and other states have already seen clear examples of managers with questionable backgrounds operating charitable gaming. It is not unusual for charitable operations to develop into some of the largest gaming establishments.
- 18) Section 37, Page 33, Line 11 - Bingo or keno callers should be required to display a license on their person. Line 16 makes it possible for local authorities to temporarily

license bingo/keno callers. This seems inconsistent and confusing. The need to provide interim licenses might better be handled through a delayed effective date.

- 19) Section 40, Page 35, Lines 10-12 seems to prohibit the county from receiving tax distribution from games operated in unincorporated towns. The county should receive monies from unincorporated cities and towns. This should say "incorporated" which is similar to Page 50, Line 20 relating to video gaming machine tax.

Line 14 - This section contains an increase in the maximum bingo or keno prize from \$100 to \$300. This section should be clarified as to apply only to live bingo or keno. In addition the law uses "award" and "card" but restricts only the combining of awards. There have been instances when multiple keno cards or bingo cards are set up on one page. This approach may lead to much larger prizes not contemplated by the law.

- 20) Section 41, Page 36, Line 4 - This section leaves the regulation of raffles with county commissions when the rest of gambling regulation is the state's responsibility. It seems inconsistent to delegate the regulation of raffles, which is a very difficult area, to county commissioners. The commissions may not be prepared or have the staff to regulate this activity.
- 21) Section 47, Page 44, Line 7 - This section appears to restrict machine permits [licenses] to individuals who have both an operator's license and an on-premise alcoholic beverage license. There are a number of establishments now which operate video keno machines that do not possess an on-premise alcoholic beverage license. In addition this requirement increases the tie between video gambling devices and the

alcoholic beverage industry. Still the bill provides for separation of liquor and gaming enforcement by moving gaming enforcement into the Department of Justice.

- 22) Section 55, Page 51, Line 4 - Instead of requiring the Department to prescribe the expected payback, it may be best just to state video gambling machines shall have an expected payback of 80%.
- 23) Section 58, Page 53, Line 21 - The legislation proposes to make tampering with a video gambling machine a felony. It seems tampering which results in obtaining consideration of over \$300 should be a felony but anything under \$300 should be a misdemeanor. Tampering is a form of theft; consequently, the provisions of the proposed legislation and the theft statutes would be consistent.
- 24) Section 64, page 57, Line 20 - This section allows for a reorganization procedure involving the Department of Commerce and Department of Justice but fails to mention the Department of Revenue. The reorganization would have a sizeable impact on Investigations Bureau staff.

Summary of amendments by page

- Page 7, Line 2 - Defines gross proceeds for bingo tax purposes
- Page 10, Line 13 - Deletes fees or taxes by local authorities
- Page 10, Line 22 - Substitutes zoning for defined areas
- Page 10, Line 24 - Substitutes zoning for defined areas
- Page 11, Line 13 - Adds "any other person" involved in gaming regulations to have interest
- Page 12, Line 17 - Includes applications as confidential information
- Page 16, Line 1 - Changes application qualification language from enhance dangers to a danger
- Page 29, Line 11 - Allows premises with the "principal purpose of gaming" to receive live game permits
- Page 31, Line 10 - Reduces pot in live card games from \$300 to \$100
- Page 31, Line 16 - Deletes local authority to set card game hours
- Page 34, Line 17 - Increases bingo tax from 3% to 5%
- Page 35, Line 12 - Deletes bingo tax appropriation to department
- Page 35, Line 23 - Increases live bingo/keno award from \$300 to \$100
- Page 39, Line 3 - Deletes local authority to set bingo/keno hours
- Page 44, Line 17 - Allows "principal purposes of gaming" premise to have video keno, bingo and poker
- Page 51, Line 8 - Eliminates video poker limit of \$800 and limits hand to \$100 per game.
- Page 52, Line 5 - Deletes local authority to set video gaming hours
- Page 54, Line 20 - Increases sports pool per square value from \$1 to \$10
- Page 56, Line 9 - Deletes authority of the Department of Justice to operate without appropriation
- Page 58, Line 3 - Exempts the bill from sunrise provisions

Comments on Legislative
Amendments to SB431
(Investigative and Enforcement Concerns)

Page 44, Line 17 - This section would allow establishments other than bars to place video poker machines. Current law restricts poker machines to bars. Video keno is available in many convenience stores and gambling halls. The primary concern from an enforcement view point is the amendment language "...Principle purpose of gaming...". This concept may be difficult in fact to establish. In addition, the change still means numerous convenience stores will lose keno machines (depending on how principal purpose is applied). Finally, the May 27, 1988, M.S.U. public opinion survey recorded 77% of those responding preferred to keep video poker limited to bars and lounges. The "principal purpose" language was also added to the card games section- Page 29, Line 11.

Page 10, Line 18 - deletes fees or taxes by local authorities
Page 39, Line 3 - deletes local authority to set live license bingo or keno hours
Page 52, Line 5 - deletes local authority to set video gambling hours

These amendments eliminate the remaining elements of local authority (hours and fees) with the exception of Page 45, Line 19 which allows local governments to restrict the number of video gaming machines.

These amendments recognize the need for consistent gaming laws. They are consistent with public opinion in which 73% of those persons surveyed in May, 1988, did not want local governments to be allowed to expand gambling. However, the amendments do not allow communities to further restrict gambling. Finally, the removal of local authority is not consistent, as machine numbers can still be limited to five by local communities.

Page 51, Line 8-10 - This section changes the maximum video poker award to \$100 a "game". The reference to hand has been deleted. Previous law set the limit at \$100 per hand. Although the use of "game" may be satisfactory, the law defines game relative to live games and it may be more appropriate to use "hand" rather than "game".

Page 31, Line 10 and Page 35, Line 22 - This section returns live game and bingo/keno awards to the \$100 award limitation. This change is noted because the Investigations Bureau made previous comments on the proposed raise of award limits.

Page 54, Line 20 - This section increases the per chance bet on sports pools from \$1 to \$10. This is not a direct concern to enforcement other than it increases the bet allowed beyond existing limits; the maximum award however is not increased.

PROPOSED AMENDMENTS TO SB431

Department of Justice

A.G.

February 28, 1989

1. P. 5, l. 21:
Before "drawn," insert "randomly"
2. P. 7, l. 24:
Strike: ", or game"
Insert: "or" between "Live card game" and "card game"
3. P. 9, l. 14:
After "public" insert: "gambling";
After "means" insert: "gambling conducted in"
4. P. 12, l. 19/20:
Insert: "(7) The department shall assess, collect, and disburse any fees, taxes, or charges authorized under part 1 through 6 of this chapter."
5. P. 23, l. 22:
Between "activity" and "the" insert: "except raffles as authorized in [section 41]"
6. P. 24, l. 8/9:
After "age" strike: "may not be permitted";
Insert after "(1)": "A person shall not purposely or knowingly allow"- - -"A" now "a"
7. P. 24, l. 18:
Between "to" and "have" insert: "purposely or knowingly";
l. 19:
Between "to" and "permit" insert: "purposely or knowingly"
8. P. 30, l. 4:
After "treasury." insert: "A county is not entitled to proceeds from fees assessed on live card game tables located in incorporated cities and towns with the county."
9. P. 33, l. 7:
After "raffles." insert: "The department may revoke the permit of a qualified organization which it determines is not acting in good faith in the operation of live bingo, keno, or raffles or is

contracting with a nonqualified organization to operate live bingo, keno, or raffles in a predominantly commercial manner."

10. P. 35, l. 12:
in "unincorporated" strike: "un"
11. P. 36, l. 4:
After "prizes" insert: "--permits--exception"
12. P. 39, l. 7/8:
Strike: "(2) A violation of this section is a misdemeanor punishable under [section 23]."
13. P. 43, l. 13-15:
Strike: "A person may not make available for public play a video gambling machine unless he has obtained an operator's license."
14. P. 49, l. 20:
Strike: "A licensee"
Insert: "An operator issued a permit under this part"
15. P. 49, l. 24:
Strike: "A licensee"
Insert: "An operator issued a permit under this part"
16. P. 50, l. 4:
Strike: "A licensee"
Insert: "An operator issued a permit under this part"
17. P. 52, l. 9/10:
Strike: "(2) A violation of this section is a misdemeanor punishable under [section 23]."
18. P. 54, l. 1/2:
After "with" strike: "or manipulating"
19. P. 54, l. 2/3:
After (1) strike: "It is a felony to"
Insert: "A person commits the offense of tampering with a video gambling machine if he "purposely or knowingly"
l. 3 plurals: "manipulates" "attempts" "conspires"
20. P. 54, l. 22:
Strike: "\$100"
Insert: "\$1,000"

Amendments to Senate Bill No. 431
Second Reading Copy (YELLOW)

Requested by Senator Halligan
For the Committee of the Whole

Prepared by Valencia Lane
February 17, 1989

2-28-89
SB 431
ALL NO.
transferred to
to e:1 Senate
2/18 3:30pm
yg

1. Title, line 10.

Following: "APPROPRIATION,"

Insert: "PROVIDING FOR A GAMING ADVISORY COUNCIL;"

2. Page 58.

Following: line 5

Insert: "NEW SECTION. Section 64. Gaming advisory council --
allocation -- composition -- compensation -- annual report.

(1) There is a gaming advisory council.

(2) The gaming advisory council is allocated to the department for administrative purposes only as prescribed in 2-15-121.

(3) The gaming advisory council consists of nine members. One member must be from the senate, and one member must be from the house of representatives. The senate committee on committees and the speaker of the house of representatives shall appoint the legislative members of the council. The seven remaining members must be appointed by the department, with ~~two~~ representing the public at large, two representing local governments, and ~~two~~ representing the gaming industry.

(4) Each gaming advisory council member is appointed to a 2-year term of office. A member of the council may be removed for good cause by the appointing body provided for in subsection (3).

(5) The gaming advisory council shall appoint a chairman from its members.

(6) Legislative members of the gaming advisory council are entitled to compensation and expenses, as provided in 5-2-302, while the council is meeting. The remaining members are entitled to travel, meals, and lodging expenses as provided for in Title 2, chapter 18, part 5. Expenses of the council must be paid from licensing fees received by the department.

(7) The gaming advisory council shall, within its authorized budget, hold meetings and incur expenses as it considers necessary to study all aspects of gambling in Montana.

(8) (a) The gaming advisory council shall submit an annual report to the department, at a time designated by the department, with recommendations for amendments to the gambling statutes, the need for additional or modified department rules, the clarification of existing rules, and other recommendations on the operation of the department or

any other gambling-related matter.

(b) The annual report required under subsection (8)(a) must be affixed to the annual department report on gambling in Montana.

(c) The council may submit interim reports to the department as the council considers necessary.

(d) The council shall meet with the department upon request of the department.

(e) The department shall meet with the council upon request of the council."

Renumber: subsequent sections

3. Page 60.

Following: line 6

Insert: "(6) [Section 64] is intended to be codified as an integral part of Title 2, chapter 15, part 20, and the provisions of Title 2, chapter 15, apply to [section 64]."

Amendments to Senate Bill No. 431
Second Reading Copy (YELLOW)

CLERICAL AMENDMENTS

For the Committee on Judiciary

Prepared by Valencia Lane
February 27, 1989

1. Page 9, line 20.
Following: "religious"
Strike: ", fraternal,"

2. Page 13, lines 7 and 8.
Following: "review" on line 7
Strike: remainder of line 7 through "department" on line 8

3. Page 15, line 18.
Following: "(3)"
Strike: "An application for a"
Insert: "A"

4. Page 24, line 16.
Strike: "[section 22]"
Insert: "23-5-104"

5. Page 26, line 22.
Following: "must"
Strike: ", "

6. Page 26, line 23.
Following: "conviction"
Strike: ", "
Following: "\$5,000"
Strike: ", "

7. Page 28, line 2.
Following: "may"
Strike: "only"

8. Page 28, line 4.
Following: "game"
Strike: "that"
Insert: "only if it"

9. Page 30, line 1.

(OVER)

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 2-28-89 Senate Bill No. 431 Time 1

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK	✓	
SEN. BROWN		✓
SEN. HALLIGAN	✓	
SEN. HARP		✓
SEN. JENKINS	✓	
SEN. MAZUREK		✓
SEN. PINSONEAULT	✓	
SEN. YELLOWTAIL		✓
SEN. CRIPPEN	✓	

6 to 4

Rosemary Jacoby
Secretary

Sen. Bruce Crippen
Chairman

Motion: Senator Halligan moved
★ an amendment to take away
local control.

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 2-28-89 Senate Bill No. 431 Time # 2

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK		✓
SEN. BROWN	✓	
SEN. HALLIGAN		✓
SEN. HARP	✓	
SEN. JENKINS		✓
SEN. MAZUREK	✓	
SEN. PINSONEAULT	✓	
SEN. YELLOWTAIL	✓	
SEN. CRIPPEN		✓

6 to 4

Rosemary Jacoby
Secretary

Sen. Bruce Crippen
Chairman

Motion: Sen. Yellowtail - Strike "10", insert "1"
on p. 54, line 20

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 2-28-89 Senate Bill No. 431 Time #3

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK		✓
SEN. BROWN	✓	
SEN. HALLIGAN		✓
SEN. HARP	✓	
SEN. JENKINS		✓
SEN. MAZUREK	✓	
SEN. PINSONEAULT		✓
SEN. YELLOWTAIL	✓	
SEN. CRIPPEN		✓

5 to 5

Rosemary Jacoby
Secretary

Sen. Bruce Crippen
Chairman

Motion: Sen. Mazurek p.45, line 10 - Withdrawn
Sen. Brown - 5 poker + 15 poker machines,
(present law) - Failed 5 to 5

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bruce D. Crippen, on March 1,
1989, at 10:00 a.m.

ROLL CALL

Members Present: Chairman Bruce Crippen, V. Chairman Al
Bishop, Senators Tom Beck, Mike Halligan, Bob Brown,
Joe Mazurek, Loren Jenkins, R. J. Pinsoneault, John
Harp and Bill Yellowtail.

Members Excused: None

Members Absent: None

Staff Present: Staff Attorney Valencia Lane and Committee
Secretary Rosemary

Announcements/Discussion: None

HEARING ON HOUSE BILL 409

Presentation and Opening Statement by Sponsor:

Representative Susan Good of Great Falls, District 36,
opened the hearing saying the bill clarified attorney
privileges pertaining to clients. She said the
privilege goes both ways.

List of Testifying Proponents and What Group they Represent:

William Conklin, Great Falls attorney, himself
C. W. Leapart, Helena attorney, himself
Sue Weingartner, Montana Defense Trial Lawyers

List of Testifying Opponents and What Group They Represent:

Michael Sherwood, Montana Trial Lawyers Association

EXECUTIVE SESSION ON BILLS PREVIOUSLY HEARDDISPOSITION OF HOUSE BILL 168

Discussion: Senator Crippen commented that the legislature had made serious studies of concurrent versus consecutive sentencing for offenses committed during parole. Senator Pinsoneault said that judges already have the authority to do consecutive sentencing. Senator Halligan said the sentencing is used as a negotiating tool and that it was difficult to get a judge to give consecutive sentencing. He thought it ought to be negotiated "out" rather than forcing the legislature to get it "in". Senator Bishop said it seems logical to do it this way, that the judge would still have discretion. Senator Pinsoneault said he thought it was a good bill. Senator Beck had reservations about the bill.

Amendments and Votes: None

Recommendation and Vote: Senator Pinsoneault MOVED that House Bill 168 BE CONCURRED IN. The MOTION CARRIED by a vote of 6 to 4 with Senators Beck, Mazurek, Yellowtail and Crippen voting NO.

DISPOSITION OF SENATE BILL 431

Discussion: There was extensive study and discussion of the amendments proposed for the bill. The "VanValkenburg Amendments" were distributed. Senator Van Valkenburg said he was on the Board of Directors of the Big Brothers and Sisters who operate a bingo operation 7 days a week to raise money for their projects. He hoped this type of organization would be taken into consideration in the study the bill. He said he had an alternative to amendment #9 with which the Department had problems. Jim Smith of the Department of Commerce thought the department of Justice would not have any problem with them. He said there might be concern with the language on the third line of the amendment "other than the operation of the game". He said it might be language that undesirable operators could use to cover other types of operations. Senator VanValkenburg said he attempted to deal with concerns of the committee in the previous executive session. He thought, however, that the bill should be enacted and the state should live with it for two years to see where it could be further improved.

Senator Mazurek said he was surprised about the size of

gambling activity in Montana. He wondered if it should be tax exempt, since it competes with commercial business. Senator VanValkenburg thought it ought to be exempt, because there is quite a distinction between charitable and commercial gambling. If taxed, 1/3 of the money would go into the tax coffers instead of to Big Brothers and Sisters, he said.

Senator Crippen asked what kind of operation was operated in Missoula by the Big Brothers and Sisters. Pat Martin, manager of the operation, said it operates 3 sets of bingo and has 5 keno machines.

Senator Jenkins asked if the operation was contracted out and Pat Martin said no, that she ran it. She said about 150 people played per day and that they took in about \$2500 per day during the week and up to \$3000 per day on weekends. She said that 75% of it goes back to the customers in cash prizes each day.

Senator Halligan said he preferred Senator Pinsoneault's Amendment #9.

Amendment and Votes: Senator Jenkins MOVED Senator Pinsoneault's amendment "revoke or suspend after investigation". Senator Mazurek was concerned with the "good faith" term. Jim Smith thought that broad or vague language like "good faith" might be warranted. The ingenuity of people trying to expand gambling had been witnessed during the past two years, he said. The MOTION CARRIED UNANIMOUSLY.

Senator Crippen said the way he read Senator VanValkenburg's amendment was that a charitable organization could not hire someone to come in and run a bingo business for them. Senator Crippen said that some charities have a bingo party once or twice a year and that they do hire professionals to run the short-term operation for them.

Amendment and Vote: Senator Halligan MOVED the original #9 with Senator Pinsoneault's language "commercially" included, striking after "determines", and taking out the "good faith" language. The MOTION CARRIED by a 9 to 1 vote with Senator Yellowtail voting NO.

Amendment and Vote: Senator Jenkins moved to include the Department of Justice in #9. The MOTION CARRIED UNANIMOUSLY.

Amendment and Vote: Senator Brown MOVED to say "on January 21" on page 44, line 17. The MOTION CARRIED UNANIMOUSLY.

Amendment and Vote: Discussion regarding the "grandfathering" clause brought out Valencia Lane's opinion that the clause would allow video, gambling and keno machines (all three) to be used. Senator Halligan wanted to add "except for poker." Senator Crippen said he would oppose adding any machines. Valencia gave qualifying language regarding poker machines, keeping them as they now are with restrictions which Senator Brown MOVED. The MOTION CARRIED by a vote of 7 to 3 with Senators Jenkins, Pinsoneault and Crippen voting NO.

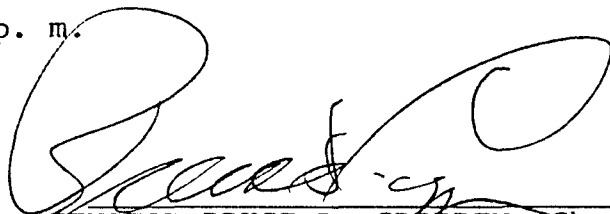
Amendment and Vote: Senator Beck MOVED to allow 20 machines total - 10 keno and 10 poker, on page 45, line 14. The MOTION CARRIED by a vote of 7 to 3 with Senators Bishop, Halligan and Jenkins voting NO.

Recommendation and Vote: Senator Brown MOVED that Senate Bill 431 DO PASS AS AMENDED. The MOTION CARRIED on a vote of 7 to 3 with Senators Halligan, Jenkins and Crippen voting NO.

Comments by the Committee: Senator Halligan said he was concerned about the "little guy" who has one machine, line the gas station owner. He wondered if we had sufficient gambling in the state to establish a Gambling Board. Attorney General Marc Racicot said that gambling in Montana generates over \$250,000,000 per year. He said that control was necessary and that the state could not safely operate gambling without passing this bill.

ADJOURNMENT

Adjournment At: 12:30 p. m.



SENATOR BRUCE D. CRIPPEN, Chairman

BDC/rj
minrj.301

ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 3-1-8

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

#1

Date 3-1-89 Senate Bill No. 431 Time 11:35

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK	✓	
SEN. BROWN	✓	
SEN. HALLIGAN	✓	
SEN. HARP	✓	
SEN. JENKINS	✓	
SEN. MAZUREK	✓	
SEN. PINSONEAULT	✓	
SEN. YELLOWTAIL	✓	
SEN. CRIPPEN	✓	

10.

Rosemary Jacoby
Secretary

Sen. Bruce Crippen
Chairman

(Amendment)
Motion: Jenkins. Moved "revoke or suspend
after investigation " Pin's amend #9 WNA

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 3-1-89 Senate Bill No. 431 Time ##

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK	✓	
SEN. BROWN	✓	
SEN. HALLIGAN	✓	
SEN. HARP	✓	
SEN. JENKINS	✓	
SEN. MAZUREK	✓	
SEN. PINSONEAULT	✓	
SEN. YELLOWTAIL		✓
SEN. CRIPPEN	✓	

9 . . . 1

Rosemary Jacoby
Secretary

Sen. Bruce Crippen
Chairman

Motion: Halligan - the original #9 with
Senator Pineseault's "commercially"
language, taking out "good faith", strik-
ing after "determines"

ROLL CALL VOTE

SENATE COMMITTEE

JUDICIARY

#3

Date

3-1-89

Senate

Bill No.

431

Time

NAME

YES

NO

SEN. BISHOP

SEN. BECK

SEN. BROWN

SEN. HALLIGAN

SEN. HARP

SEN. JENKINS

SEN. MAZUREK

SEN. PINSONEAULT

SEN. YELLOWTAIL

SEN. CRIPPEN

UNAN

Rosemary Jacoby
Secretary

Sen. Bruce Crippen
Chairman

Motion:

*include Dofg.
#9 as amended.*

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

#21

Date 3-1-89 Senate Bill No. 431 Time

NAME	YES	NO
SEN. BISHOP		
SEN. BECK		
SEN. BROWN		
SEN. HALLIGAN		
SEN. HARP		
SEN. JENKINS		
SEN. MAZUREK		
SEN. PINSONEAULT		
SEN. YELLOWTAIL		
SEN. CRIPPEN		

Rosemary Jacoby
Secretary

Sen. Bruce Crippen
Chairman

Motion: p. 44 line 17 "or" Jan. 1 UNAN

ROLL CALL VOTE

SENATE COMMITTEE

JUDICIARY

Date

3-1-89 Senate

Bill No.

431

Time

#5

NAME

YES

NO

SEN. BISHOP

✓

SEN. BECK

✓

SEN. BROWN

✓

SEN. HALLIGAN

✓

SEN. HARP

✓

SEN. JENKINS

✓

SEN. MAZUREK

✓

SEN. PINSONEAULT

✓

SEN. YELLOWTAIL

✓

SEN. CRIPPEN

✓

67. 3

Rosemary Jacoby
Secretary

Sen. Bruce Crippen
Chairman

Motion:

U L

Brown's-

Quality grandfathering
poker machines, keeping
them as they now are. Restr.
them

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 3-1-89 Senate Bill No. 431 Time # 6

NAME	YES	NO
SEN. BISHOP		✓
SEN. BECK	✓	
SEN. BROWN	✓	
SEN. HALLIGAN		✓
SEN. HARP	✓	
SEN. JENKINS		✓
SEN. MAZUREK	✓	
SEN. PINSONEAULT	✓	
SEN. YELLOWTAIL	✓	
SEN. CRIPPEN	✓	

7. 3

Rosemary Jacoby
Secretary

Sen. Bruce Crippen
Chairman

Motion: Beck Moved 10^{prober} and 10^{hand} machines
p. 45 line 14
passed

ROLL CALL VOTE

7

SENATE COMMITTEE JUDICIARY

Date 3-1-89 Senate Bill No. 431 Time 12:00

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK	✓	
SEN. BROWN	✓	
SEN. HALLIGAN		✓
SEN. HARP	✓	
SEN. JENKINS		✓
SEN. MAZUREK	✓	
SEN. PINSONEAULT	✓	
SEN. YELLOWTAIL	✓	
SEN. CRIPPEN		✓

7. 3

Rosemary Jacoby
Secretary

Sen. Bruce Crippen
Chairman

Motion: Beck Brown DPAA

SENATE STANDING COMMITTEE REPORT

Page 1 of 7
March 2, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration SB 431 (second reading copy -- yellow), respectfully report that SB 431 be amended and as so amended do pass:

1. Title, line 10.

Following: "~~APPROPRIATION~~;"

Insert: "PROVIDING FOR A GAMING ADVISORY COUNCIL;"

2. Page 5, line 20.

Following: "~~are~~"

Insert: "randomly"

3. Page 7, line 24.

Following: "live card game"

Strike: "2"

Insert: "or"

Following: "card game;"

Strike: "and "game" "

4. Page 9, line 14.

Following: "Public"

Insert: "gambling"

Following: "means"

Insert: "gambling conducted in"

5. Page 9, line 20.

Following: "religious"

Strike: "fraternal;"

6. Page 12, line 20.

Following: line 19

Insert: "(7) The department shall assess, collect, and disburse any fees, taxes, or charges authorized under parts 1 through 6 of this chapter."

7. Page 13, lines 7 and 8.

Following: "review" on line 7

Strike: remainder of line 7 through "department" on line 8

8. Page 15, line 18.

Following: "(3)"

Strike: "an application for a"

Insert: "A"

9. Page 23, line 22.
Following: "activity"

Insert: ", except raifler as authorized in [section 41],"

10. Page 24, line 8.

Following: "A"

Insert: "person may not purposely or knowingly allow a"

11. Page 24, lines 8 and 9.

Following: "age" on line 8

Strike: remainder of line 8 through "permitted" on line 9

12. Page 24, line 16.

Strike: "[section 22]"

Insert: "22-5-104"

13. Page 24, line 18.

Following: "to"

Insert: "purposely or knowingly"

14. Page 24, line 19.

Following: "to"

Insert: "purposely or knowingly"

15. Page 26, line 22.

Following: "must"

Strike: ", "

16. Page 26, line 23.

Following: "conviction"

Strike: ", "

Following: "\$5,000"

Strike: ", "

17. Page 28, line 2.

Following: "may"

Strike: "only"

18. Page 28, line 4.

Following: "same"

Strike: "that"

Insert: "only if it"

19. Page 29, lines 11 through 13.

Following: "printer" on line 11

Strike: remainder of line 11 through "it]" on line 13

20. Page 30, line 1.

Following: "county"

Strike: ", "

21. Page 30, line 4.

Following: "treasury."

Insert: "A county is not entitled to proceeds from fees assessed
on live card game tables located in incorporated cities and
towns within the county."

22. Page 32, line 19.

Following: "may"

Strike: "only"

23. Page 32, line 20.

Following: "raffle"

Insert: "only if it is"

24. Page 33, line 7.

Following: "raffles."

Insert: "The department may revoke or suspend the permit of a
qualified organization that, after investigation, the
department determines is contracting with a nonqualified
organization to operate live bingo, keno, or raffle in a
predominantly commercial manner."

25. Page 35, line 12.

Strike: "unincorporated"

Insert: "incorporated"

26. Page 36, line 4.

Following: "~~exemption~~"

Insert: "-- permits -- exception"

27. Page 39, line 1.

Following: "restrictions"

Strike: "-- penalty"

Following: "."

Strike: "(1)"

28. Page 39, lines 7 and 8.

Strike: subsection (2) in its entirety

29. Page 40, line 10.

Following: "poker"

Strike: "1."

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dave Brown, on March 23, 1989, at
12:25 p.m.

ROLL CALL

Members Present: All members present with the following
exceptions:

Members Excused: Rep. Ole Aafedt, Rep. Mary McDonough, Rep.
Linda Nelson

Members Absent: None.

Staff Present: Julie Emge, Secretary
John MacMaster, Legislative Council

Announcements/Discussion: Executive action on SB's 263, 307,
342, 396 and 397 will follow hearing on SB 431.

HEARING ON SENATE BILL 431

Presentation and Opening Statement by Sponsor:

Sen. Del Gage, Senate District 8 commented that there has been a lot of concern regarding gambling issues in the State of Montana to the point that a fairly large study report was filed. This bill is an attempt to address a lot of those issues, as far as the state is concerned. Those that have not had the opportunity to review the study report may want to as it indicates from the public hearings that were held the feelings of the public with regard to gambling in Montana. They do not want expansion of gambling in Montana by a fairly substantial margin but do want some kind of coordinated regulation of gambling in Montana. SB 431 primarily coordinates regulation in the State of Montana. It will be at the state level under the attorney general's jurisdiction to where everybody is being regulated on the same basis and in the same way. At the present, many areas are doing almost nothing as far as the regulation of gambling is concerned. This bill will additionally address the issue of revenues not being generated from licensing and controlling gambling. Sen. Gage stated that there were many people that wished to speak on the bill and reserved the right to close.

Testifying Proponents and Who They Represent:

Rep. Dorothy Cody, House District 20
Sen. Dennis Nathe, Senate District 10
Marc Racicot, Attorney General
Jimmy Gertlin, Director GIA
Bob Durkee, Montana Tavern Association
Steve Wilkin, President, Montana Tavern Association
Mike Schaeffer, Yellowstone County Sheriff
Roger Knudson, President, Yellowstone County Tavern Association
Pias Elias, Billings Bingo Palace
Bill Ware, Helena Chief of Police
Terry Will, Bingo and Poker Room of Helena
Jim Nugent, Missoula City Attorney
Alec Hansen, Montana League of Cities and Towns
Mark Brisam, Big Brothers and Sisters Bingo of Missoula
Becky Erickson, Sam's Supper Club in Glasgow
Mignon Waterman, Montana Association of Churches
Brad Schoepf, Gaming Operator from Kalispell
John E. Kennedy Jr., Mayor of Kalispell
Harold Hanser, Yellowstone County Attorney
Andy Poole, Dept. of Commerce
John Willems, Bureau Chief of Video Games Bureau
Bob Fletcher, Cannery Lounge in Bozeman
Robert Ellerd, Office of the Governor
Kent Frampton, Cavanaugh's Casino in Kalispell

Proponent Testimony:

Rep. Dorothy Cody, House District 20 stated that gambling in the State of Montana has slowly but surely been expanding. It has become increasingly obvious to many that there exists a great deal of fragmentation in who, what, and where the control is, has been, or should be. She feels that SB 431 takes care of most of all of these problems and stated that she strongly supports it for that reason. However, there is one small amendment that needs to be added (EXHIBIT 1). Last year the federal government passed a law requiring states and Indian reservations to enter into agreements concerning gambling on the reservations. This bill could be the vehicle for those agreements somewhere down the line. She stated that she does not have a lot of specifics on the federal law, but does know that it defines gambling on reservations in a three tiered system along with a commission. The amendment that she is offering is an amendment that she feels is important because of that federal law, and that it addresses some of the concerns of her people on the Fort Peck Reservation. Additionally, she commented that she would like to clarify a misunderstanding that some people have about gambling on the Fort Peck Reservation. It is not an individually owned enterprise. There are community organizations of Native Americans throughout the reservation, consisting of the Wolf Point

Community Organization, the Frazier Community Organization, and the Poplar Community Organization. Each of those community organizations is the governing body for the tribal members in that community. Particularly, in the community of Wolf Point, they elect members to a board from their own group and that is the governing body. Rep. Cody stated that they would like to see a Native American on the commission of this bill from a reservation that has gambling. She urged the committee's consideration of her proposed amendment and the adoption of SB 431.

Sen. Dennis Nathe, Senate District 10 rose in support of the amendment that was proposed by Rep. Cody and reiterated that they need cooperation between the state and the tribes on a certain class of gambling before they can use any of the poker machines in an establishment according to the law put forth by the federal government. It is also very important that the committee make provisions to have one Native American on the gaming commission. The Inter-Tribal Policy Board would be one entity that's in existence that could recommend to the State of Montana or to the governor a person to be appointed to sit on the gaming commission. Sen. Nathe expressed that he is in full support of the amendment offered by Rep. Cody and in favor of the bill.

Attorney General Marc Racicot stated that since the legislative session of 1972, gambling in Montana has grown. Not only in terms of the types of gambling that are legal, but also in terms of the form of regulation and the revenue that is being generated from gambling. Since that time they have authorized a number of different varieties of gaming in Montana; live bingo, live keno, live poker and other live card games. The legislature has also authorized the state lottery, sports pools, raffles, calcutta's, etc. as well as authorizing video gambling machines on which bingo, keno and poker can be played. In terms of the different types of gambling available in the State of Montana, we rank third in the country behind the states of Nevada and New Jersey. At this point and time, the estimates that Mr. Racicot has received are that approximately 1 billion quarters, or \$250 million in quarters are being utilized in video gambling machines annually in this state. Of that amount \$80,000 is the profit that the industry is realizing before taxes are paid. Of the taxes paid, \$8 million is being returned to local governments, and \$4 million is going into the state general fund. One must keep in mind when discussing those figures that they are only speaking of video gambling machine revenue, that does not include the revenue expended on any other forms of legal gambling in Montana.

Mr. Racicot stated that one of the more interesting things that was done by the Gaming Advisor Council was to survey local governing bodies across Montana about the forms of gambling that are statutorily empowered to be regulated and taxed. 87% of those local governments

responded to the survey and of those responding only 15% had created a local regulatory council to oversee gambling in this area. Only 40% taxed or assessed fees on the gambling even though they were empowered to do so by the legislature. One of the survey questions asked local governments to identify the types of gambling in their area. Some of the local governments identified games which are clearly illegal under our regulatory scheme. Mr. Racicot commented that he does not mean to imply that local governments do not care about what's going on in their jurisdiction, he firmly believes that they do; and most of the larger counties and cities in the state take responsibility for gambling in their area and they regulate and tax the gambling. There are however, two problems that exist. The small counties and communities do not have the resources to license and regulate gambling at the same level of their communities. Large communities and counties, while taking a much more active role in the regulation of gambling, interpret the statute much differently from jurisdiction to jurisdiction. What is the result of the gambling fragmentation in Montana? First, local governments are losing authorized revenues, not only because they do not tax legal gambling, but even if they do, the illegal gambling dollar is a dollar spent outside of the regulatory process which will never be recovered. Second, the industry is having to compete with illegal gambling enterprises that would otherwise be available to them on a competitive basis. Thirdly, one business may be paying \$1,500 a year to run a poker game while within a mile of a different jurisdiction, there is no annual fee. Mr. Racicot stated that the real question is who benefits from the gambling fragmentation in the State of Montana. He doesn't feel that it is local governments, state governments, the legitimate businessman and he doesn't feel that it is the player. The person who benefits from the fragmented mess that we have in Montana is the person with the desire or willingness to hide behind the statutes that currently exist.

Mr. Racicot stated that there is definitely a need for uniformity and regulation at the state level. Should local governments have a say about gambling in their jurisdiction? That is a question that the committee is obviously going to have to deal with. Local control has lead to not less gambling, legal or illegal, but to more gambling. The Gaming Advisory Council had Montana State University conduct a statistically valid gambling survey last spring. They asked a number of pertinent questions about gambling of adult citizens, both male and female. The question receiving the highest positive response was whether or not the respondents were in favor of uniform regulation and control. 95%

of the respondents favored uniform regulation and control of gambling in Montana. Therefore, gambling is not a local government issue, nor is it just a Montana issue, it is a legislative issue. The questions that they have to confront when considering this piece of legislation are: 1.) What do they need to do to assist local government, state government, the industry, law enforcement, and the players regarding gambling legislation; and 2.) What do they need to do to force illegal gambling elements out of business in the State of Montana? Those are the major arguments and questions that the Gaming Advisory Council dealt with for over a year and Mr. Racicot feels that they did a good job in answering those questions to the best of their ability. Additionally, they did not do their work in a vacuum, they held public hearings across the state and over 18 council meetings were held all across Montana receiving input from the industry, from local governments, from church groups and organizations, law enforcement agencies and other interest groups including players. They conducted the survey concerning relevant gambling issues and they contracted with the survey research center at MSU. The membership of that council included representation from the Montana Tavern Assoc., law enforcement, the Gaming Industry Assoc., local governments, the Inn Keepers Assoc., the Coin Operators Assoc., and the legislature in the form of Sen. Jack Haffey. As the chairman of the Gaming Advisory Council stated in the forward to the report, "it's important for me to advise the readers of this report that these council members truly committed themselves to finding the best path for gambling in Montana's future. The path wanted by Montanan's. It's my opinion that the objective nature of their work gives this report validity, and credibility as a useful basis for action both by the legislative and administrative branches of state government as well as the local governments in Montana."

Mr. Racicot commented that the gambling legislation in the form of SB 431 recommends that gambling rules and regulations be uniform statewide for all forms of gambling. It recommends a regulatory scheme to be created for the purpose of assuring that gambling is uniform, fair and legal statewide. It recommends that all forms of legal gambling be taxed by the state with the revenue being returned to local governments. Under this bill, almost 2 million more dollars in revenue will be returned to local governments as is presently occurring. It recommends that persons receiving profits from gambling in Montana be licensed so that a problem in Missoula does not become a problem in Great Falls because of a lack of information. It also provides a provision of licensing revenues to treat

those who are involved in the enforcement end, habitual gambling and Gamblers Anonymous Association to provide for the provision of licensing revenues for law enforcement, training at the local law enforcement academy and it recommends that a licensing mechanism be established for all forms of gambling which alleviates a need for a business person to pay separately to local governments and the state various taxes and fees at different times. Currently in Montana, there are industries that are manufacturing gambling devises, which are illegal in the State of Montana to possess. They then they ship those devises to jurisdictions outside Montana where they are legal. This bill requires that those companies be allowed to continue to do business through licensing and inspections. There are several major manufacturers in Montana employing hundreds of people who could, if the law were to be applied everyday, be shut down under the current statutes in Montana.

Mr. Racicot stated that his intent in bringing this bill forward through the Advisory Council is to present a vehicle to the legislature so they can once and for all deal with this problem which involves a very major industry in the State of Montana. With very few exceptions, he feels that most of the concerns can be put on the table and dealt with honestly and responsibly and that they can end up with a bill that allows them the opportunity to deal with the problem in a fashion that is not oppressive and that is fair. Mr. Racicot expressed that he has no special interest in this legislation other than to see that it provides a vehicle for regulation and enforcement.

Jimmy Gertlin, Director of the GIA assured the committee that they will work with the appointed subcommittee to the best of their ability to make this bill work right for the state.

Bob Durkee, a lobbyist for the Montana Tavern Assoc. stated that they are in support of the concept of SB 431 with the inclusion of their proposed amendments (EXHIBIT 2).

Steve Wilkin, President of the Montana Tavern Assoc. and owner of the Steer Inn Lounge in Three Forks, Montana stated that the MTA membership consists of about 1/2 of all the licensed beverage outlets in the State of Montana. They feel that the uniformity concept of this bill will be good for their industry and that it is a good bill.

Mike Schaeffer, Yellowstone County Sheriff and representing the Montana Sheriff's and Peace Officers Assoc. stated that the Assoc. supports SB 431. They think that it's time that we have some uniformity and the enforcement of it. They don't have any problems with the amendments as long as equal enforcement throughout the state is followed through with.

Roger Knudson, President of the Yellowstone County Tavern Assoc. commented that because of so many previous problems in interpretation and enforcement of gambling laws, the Assoc. supports this bill as it will address those issues.

Pias Elias, operator of the Big B Bingo Parlour in Billings stood in support of SB 431 and stressed that Montana needs uniformity. He is concerned with page 5, section 3, line 20 and stated that the language, as printed would make every bingo cart in the State of Montana obsolete. That language should be changed to have that free space optional. Additionally, page 34, section 38 that talks of fee licensing live bingo also concerns him. This is something that would be very hard to regulate and tax. Mr. Elias commented that he is in strong favor of a flat fee.

Bill Ware, Helena Police Chief and representing the Montana Assoc. of Chief's of Police stated that they are in support of SB 431 as amended. This bill represents a giant step for the State of Montana as it provides uniformity. He expressed concerns with the bill on page 46, lines 18-22 which provides for jurisdictions to set limits of no less than 5 machines. Mr. Ware stated that he served on the Gaming Advisory Council for over a year and asked the committee to consider the proposed amendments carefully. This bill is workable, enforceable and it is understandable. He urged the committee's concurrence as currently amended.

Terry Will of the Bingo and Poker Room in Helena, referring to section 29 stated that about 50% of his income is from the live poker table. He suggested an amendment to section 47 to read that a person legally operating an established business as of January 15, 1989 for the principle purpose of gambling will be granted an operators license.

Jim Nugent, the Missoula City Attorney stated that the city of Missoula supports SB 431 with the addition of two major amendments. Both amendments cause concern to the city of Missoula's elected officials for the reason that they will, in fact, cost the city of Missoula gambling tax revenues. The two provisions that they are concerned about are the two proposals that would require that keno, bingo, and video draw poker machines only be located on a premise that sells alcohol for on premise consumption. Further, they oppose the prohibition on gambling between the hours of 2 a.m. and 8 a.m. with respect to the limitation on where the machines are located. As of this week the city of Missoula has approximately 26 keno machines that are located at locations that do not have on premise alcohol consumption licenses. These are convenient stores, laundromats, gas stations, Big Brothers and Sisters, etc. raising money for non-profit entities. There are some real irony's in the bill as it is proposed with those limitations in it. Mr. Nugent urged the committee to consider the above mentioned concerns. He

stated that their finance officer believes that they would lose between \$30 - \$45,000 a year and that would mean that the State of Montana would lose between \$15 - \$22,500. Under the current proposal the cities, the counties and the state government will lose.

Alec Hansen from the Montana League of Cities and Towns stated that they understand the logic of uniform regulation and enforcement of gambling in Montana, but believe there is one place in this law where local control is an important concept and that relates to the hours of operation. By providing uniform hours of operation, in a sense they are saying that every town is the same. They look at this provision as a way of maintaining revenue that video gambling is generating for cities and towns in the state. Additionally, Mr. Hansen commented that it would be important for the committee to consider another amendment that would allow the location of these machines in places other than those licensed for on premises consumption of alcohol. He also supported Rep. Cody's amendment, particularly if it would improve the prospects of negotiating agreements with the tribes that will maintain the states authority over gaming on reservations, and more importantly, the states ability to collect taxes on those games and machines.

Mark Brisam, appearing on behalf of the Big Brothers and Sisters of Missoula commented that a few years ago they came to the realization that the State and the United Way would not be able to fully fund Big Brothers and Sisters of Missoula. They therefore decided to get involved with a benefit bingo game to be more self sufficient. As written, SB 431 will enable them to continue to provide that stable source of funding and urged the committee's support.

Becky Erickson, owner of Sam's Supper Club in Glasgow, Montana rose in support of SB 431 with the amendments proposed by the Montana Tavern Association. In addition to being a member of the Glasgow City Council, a member of the Police Commission, an officer of the Montana Tavern Assoc., and also a member of the Gaming Advisory Council, she stated that she supported the recommendation submitted in its final report to the governor. She commented that she does not support the local option authority, it would seriously weaken the desired uniformity. Mrs. Erickson stated that she feels that SB 431 will help and benefit all those involved.

Mignon Waterman, speaking on behalf of the Montana Assoc. of Churches submitted written testimony voicing their support of SB 431 (EXHIBIT 3).

Brad Schoepf, a gaming operator from Kalispell, a member of the Coin Operators Assoc., and appointed to the Gaming Advisory Council commented that as a member of the Advisory Council they had many meetings throughout the State and one thing became very clear to the Council; the people in Montana want uniform gambling laws. He urged the committee's support of SB 431.

John Ed Kennedy Jr., the Mayor of the city of Kalispell, a member of the Gaming Advisory Council and a member of the Gambling Commission in Kalispell stood in strong support of SB 431. This is a very good piece of legislation. Kalispell, differently from Missoula, has expressed that they do not want gambling from 2:00 a.m. to 8:00 a.m., and they do not want gambling machines anywhere other than in licensed on premise consumption of alcohol places. SB 431 allows statewide control of gambling, training for licensees, training for law enforcement personnel, it addresses the social concerns of gambling including help for chronic gamblers, it increases local revenue, any administrative expenses incurred by this bill are paid by revenue from the industry it regulates, and very importantly, it clarifies the law which now is subject to interpretation and is interpreted differently in different counties and jurisdictions. Mr. Kennedy stated that he feels very strongly about this bill and feels that it can be administered very ably under Marc Racicot and the Dept. of Justice. It will fairly and honestly license and regulate gambling in the State of Montana.

Harold Hanser, the County Attorney in Yellowstone County submitted for the record testimony of Kay Foster, a member of the City Council of Billings (EXHIBIT 4). Mr. Hanser stated that he had the opportunity to serve on the Gaming Advisory Commission and he is very pleased to see that the essential work of that commission has been incorporated into SB 431. If there has been a persistent and non-soluble problem that has faced law enforcement prosecutors over the 20 years that he has been involved in business, it has been that of gambling in Montana. The basic problem, of course, is there has been a reluctance to accept the fact that gambling is an industry in the State of Montana. We simply do not have the legal structures to properly regulate and control this industry. The existing system in Montana neither does a very good job of protecting the public, nor does it protect the industry itself. Mr. Hanser stated that the proposed legislation picks up the short-falls because it provides for uniformity. It is the function of the legislature to set the public policy on gambling and what kind of gambling will be allowed. There has to be an administrative agency that puts out uniform rules so that everyone is doing the same thing. He feels they have an opportunity to make a real positive step forward in gambling and urged the committee's support.

Andy Poole of the Dept. of Commerce stated that the Dept. supports the concept of SB 431 and they support the transfer of the Video Gaming Control Bureau from the Dept. of Commerce to the Dept. of Justice. The members of the Gaming Advisory Council did a lot of work with this and it deserves the committee's support.

John Willems, Bureau Chief of the Video Games Control Bureau stood in support of SB 431 and submitted a portion of the Gaming Advisory Council's Survey for the committee's review (EXHIBIT 5).

Bob Fletcher of the Cannery Lounge in Bozeman, Montana Tavern Assoc. Chairman and a member of the State Gaming Advisory Council stood before the committee in support of SB 431. He commented that with the Attorney General's insight, and a structure that is established by the committee, the MTA and those members of the Gaming Advisory Council can live within a structure that will work. If they drift away from uniformity when considering the bill along with the amendments, the bill will not be workable.

Bob Ellerd from the Office of the Governor expressed that the Governor strongly supports this legislation. He is very emphatic about supporting uniform statewide rules and regulations and the enforcement of gambling in the State of Montana. Additionally, he is also strong is opposing and will not accept any expansion of gambling. He is behind the attorney general in this bill and asks for the committee's support.

Kent Frampton, representing Cavanaugh's Casino in Kalispell, the Grouse Mountain Lodge in Whitefish, and President of the Gaming Industry Assoc. of Montana stated that he would like to make a clarification. The amount of \$250 million that continues to be brought up, wants the committee to understand that \$250 million is a handle figure. With video gaming machines there is an 80% payback. He reviewed amendments for the committee's consideration and recommended that page 5, lines 5-14 be deleted. Page 7, line 14, following "random", insert at least 20 balls. He also expressed concern on page 10 and recommended to strike lines 22-25. Further concerns and amendments will be discussed with the subcommittee.

Additional testimony was submitted by Shelly Laine representing the City of Helena voicing her support of the proposed legislation (EXHIBIT 6).

Testifying Opponents and Who They Represent:

Mark Trafton, Cascade County Tavern Association
Lynn Seelye, Cascade County Tavern Association
Larry Ake, Montana Coalition Group
Rep. Bob Pavlovich, Owner of the Met Bar in Butte
Sid Smith, Bingo Parlour East of Helena
Walter Jakovich, IT Club in Rocker, Montana

Opponent Testimony:

Mark Trafton, representing the Cascade County Tavern Assoc. stated that the Assoc. is opposed to SB 431 in its current form. That is not to say that they couldn't change their mind if the committee adopts the amendments that will be proposed by further opponents. Mr. Lynn Seelye, a member of the Cascade County Tavern Assoc. and a practicing member of the law profession in Great Falls will submit those said amendments. Mr. Trafton introduced Mr. Seelye to the committee.

Lynn Seelye, a member of the Montana State Bar as well as a member of the Washington State Bar, and the owner of a bar and bingo parlour in Cascade County stated that he agrees that Montana needs regulation and uniformity. Mr. Seelye submitted a witness statement accompanied by proposed amendments listed as EXHIBIT 7.

Larry Ake, representing the Video Keno Coalition stated that the people he represents support laws that would create and maintain a uniform regulatory climate in order to insure fairness in the industry. They support laws that would protect the public from unscrupulous proprietors and operators. They support laws that would protect local and state government for the loss of revenues through illegal gambling activities and they support laws that would promote and fund programs to help compulsive gamblers and their families. Mr. Ake commented that these are all laudable goals, but not at the risk of suspension of the civil liberties of the people involved in the industry. There are parts of this bill that he feels do, in fact, suspend the civil liberties of the people involved in the gaming industry. He directed the committee's attention to section 8, page 12; page 15, line 22, qualifications for licensure; and page 18, section 12, judicial review. Mr. Ake submitted proposed amendments (EXHIBIT 8) for the committee's consideration.

Rep. Bob Pavlovich, House District 70 stated that he appears neither as a proponent nor as an opponent. He appears as a tavern owner and a concerned citizen. One of his concerns with the bill is that tavern owners often have to act as a bank for those customers wanting to cash checks. Under this bill, the person who wrote the check could use that money to use in his video machines. He has no recourse, he has to

give them their money. Additionally, he is concerned with the penalty section. He feels they should insert a grandfather clause or have a graduated penalty. Further, Rep. Pavlovich expressed that he believes in uniformity, but if we're going to have a local option, then lets have a local option for everything. Another problem, the bill states "a video gaming machine". They're talking about a bingo machine, a poker machine and a keno machine. There is a 21 machine out there. Can they legally use that machine? That decision will have to be left up to the attorney general. He has no problem with the hours of operation; however, if they're going to allow Kalispell to stay open after 2:00 a.m., then everyone should be able to stay open after 2:00 a.m. Again, uniformity. Rep. Pavlovich submitted proposed amendments listed as EXHIBIT 9.

Sid Smith, owner of a bingo parlour east of Helena stated that this bill directly affects him and his establishment. To his knowledge, not one of the members who served on the Gaming Advisory Council visited any of the local bingo establishments for their input. Instead, they went to Seattle, a state that has charity bingo. The city of Seattle and the surrounding area has more population than the entire State of Montana and the members did not address some of the problems that Montana is facing. When the Advisory Council met, Mr. Smith stated that he traveled to Billings, Kalispell, Great Falls and Helena and gave testimony thinking that this was an equitable bill and that it would treat everybody fairly. He was in favor of it, but in its present form he can't support it. Additionally, the fiscal note states that there are 380 commercial bingo and keno establishments in the State of Montana. The local Gambling Governing Survey of February 1988 shows that there are 70 live keno games in the State of Montana and 58 live bingo games, including all charitable and all commercial games. That comes to a total of 125. If, in fact, they can adopt amendments and make adjustments to SB 431 then he will be support the bill, if they can't, he suggests to kill the bill.

Walter Jakovich, owner of the IT Club in Röcker, Montana stated that he is opposed to the bill as written. Those means of exchange that are legal for every other business in the United States should be legal for the businesses of Montana. They pay a multitude of taxes and do their part concerning community services and they would like to be treated as honest businessmen.

Questions From Committee Members: Rep. Gould questioned Attorney General Racicot as to the first amendment that was proposed. He has no problem with a Native American being a part of the Advisory Council, but with the difference between the 7 Indian reservations in the rest of the state, there could be a recommendation made by that Advisory Council to him as far as something that would take place such pole tabs of the

Indian reservations. Attorney General Racicot commented that Rep. Cody's recommendation to the committee is very sound and appropriate. There are, pursuant to the Indian Gaming Act, three levels of gambling. Class 1, class 2, and class 3. The only form of gambling which is going to be subject to negotiation is those forms contained in class 3, which are the majority of the kinds that are authorized in the State of Montana. The other two forms of gambling are going to be controlled by a National Gambling Commission. As a consequence, they are, pursuant to the act, placed in the position of dealing with the Indian tribes certain agreements across the State of Montana that will cover the class 3 gaming. Mr. Racicot stated that he feels that it is very relevant and necessary that they have a representative of the Native American population on that commission.

Rep. Gould commented that the point he is trying to get across is, can he (attorney general) wind up in a situation where he can be sued by some individual or organization for making a decision that they would be construing and advocating a form of gambling that would not be legal. Mr. Racicot commented that if they don't ultimately reach an agreement, then they could end up in court. He cannot, however, see that they would end up in court in the event that something was authorized on the reservation that would not be authorized by the State.

Rep. Gould then asked the Attorney General if he could give the committee an idea of what class 1 and class 2 types of gambling consists of. Is there any possibility that one of the reservations might decide to opt for that form of commission? Mr. Racicot commented that he could not articulate the different forms of class, but for example, punch boards are contained within one of those two classes. They are not legal by our state law. Class 3 includes video gaming machines, live poker games, etc. The more commercial forms of gambling are contained within classes 1 and 2 and will be set by the Nationwide Indian Gaming Commission as to what will be allowable and what will not.

Rep. Eudaily referred to page 46, the jurisdiction of local governments to regulate where these machines are played and how many they may have. How are we going to have uniformity if we provide for that exception? Mr. Racicot stated that those are some accommodations that were made in an effort to provide a vehicle for regulation and uniformity as much as they could accomplish. There are some exceptions in the bill.

Rep. Mercer questioned section 6 where it states that an employer of the dept. or any other person that's involved in the prosecution of gambling cannot be an officer in an organization. Rep. Mercer stated that in Lake County, the County Attorney is an officer of the Polson Elks Lodge. Would this prohibit him from being an officer in that lodge since they have gambling devices? Mr. Racicot agreed that is would and stated that Sen. Van Valkenburg, who is a sponsor of this legislation is an officer with Big Brothers and Sisters of Missoula and considers himself to be in a position to have to resign that status as well.

Rep. Mercer asked the Attorney General if he thinks it essential to the bill and to the law that those people not be permitted to participate in those organizations. Mr. Racicot stated that yes, he feels it is essential.

Rep. Mercer continued and stated that he was interested in some of the comments made about this being within the Dept. of Justice. They have the obligation to enforce the laws, but now they are also administering them. He wondered what his reply is to the criticism that it is not wise to have the prosecutor also be the administrator. Mr. Racicot commented that he feels that there is some risk to that, but also recognizes that this is a common procedure in state government. These provisions, a number of which are complained about, are drawn out of the Administrative Procedure Act. Pursuant to that act there are a number of different administrative functions that are performed all by the same person. It is not something that is foreign or uncommon to them at all. It is something they have found is administratively necessary to properly manage the administrative workload.

Rep. Brown stated that in regard to Rep. Mercer's original concern, with a state the size of Montana, we don't have enough people to go around and cover all of those organizations. In small communities, everybody is a member of an organization, otherwise there wouldn't be any of those active clubs. Mr. Racicot stated that as a practical matter, the risk of any compromise or conflict is very marginal. He also feels that they owe an obligation to the industry to demonstrate that the rules and regulations place them beyond reproach.

Rep. Brown questioned Sen. Gage if the fiscal note reflects what provisions the Senate made. Sen. Gage stated no, it has not been changed since the Senate heard the bill. Rep. Brown asked if it would change given the action of the Senate. The Senator replied that he didn't recall any significant changes that would effect it.

Closing by Sponsor: Sen. Gage expressed that this is a decent bill to start with for what can become, and in some instances, is a problem in our state. The study that was done by the Advisory Council indicates that. Regarding some of the concerns that were expressed, they need to keep in mind that most of those folks will not have to be dealt with other than for the payment of the taxes and the licensing. It is that small factor of having tough rules and tough decisions in order to keep them under control. This bill is not being brought before the committee as a perfect bill, it is being brought as a whole new part of the operation of state government with regard to gambling in Montana. Let's work with the industry for the next two years and when they find out where the ragged edges are they can address those problems during the next session.

DISPOSITION OF SENATE BILL 342

Motion: Rep. Addy motioned that SB 342 BE CONCURRED IN, motion seconded by Rep. Strizich.

Discussion: John MacMaster explained to the committee proposed amendments drafted by the subcommittee (EXHIBIT 10).

Amendments, Discussion, and Votes: Rep. Addy moved amendments 1-23, amendment 25 and delete amendment 24 (EXHIBIT 10), motion seconded by Rep. Rice.

Rep. Brooke, referring to amendment 23 understood that the word "nudity" was taken out of the bill. She has no problem with that, but thought that it was removed. Sid Thomas stated that that particular amendment was taken from another state and the idea was to focus on nudity alone; however, it may be more consistent if it is taken out. The committee agreed to leave the word "nudity" as it appears in amendment 23.

A vote was taken on the proposed amendments and CARRIED unanimously.

Recommendation and Vote: Rep. Addy motioned SB 342 BE CONCURRED IN AS AMENDED, motion seconded by Rep. Knapp. Motion CARRIED unanimously.

DISPOSITION OF SENATE BILL 307

Motion: Rep. Addy motioned SB 307 BE CONCURRED IN, motion seconded by Rep. Rice.

Discussion: John MacMaster explained to the committee proposed amendments drafted by the subcommittee listed as EXHIBIT 11.

Rep. Brown stated that his purpose in working with the subcommittee on these bills was to bring them in line as best they could with Montana law and codes with the policy decisions that the House has the right to make in regard to

DAILY ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date March 23, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT			X
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO			
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH			X
REP. JOHN MERCER	X		
REP. LINDA NELSON			X
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

Amendments to Senate Bill No. 431
Third Reading Copy

Requested by Representative Cody
For the Committee on Judiciary

Prepared by Paul Verdon
March 22, 1989

1. Page 59, line 25.

Following: "GOVERNMENTS,"

Strike: "AND THREE"

Insert: "two"

2. Page 60, line 1.

Following: "INDUSTRY"

Insert: ", and one native American who resides on a Montana
Indian reservation where a gaming enterprise is operated in
conformance with the laws of the United States"

MONTANA



Tavern Association

Affiliated and Associated with the NLBA

PROFESSIONAL PLAZA - SUITE AB-2
900 N. MONTANA AVENUE - P.O. BOX 851
Helena, MT 59624 / PHONE 406-442-5040

TO: Rep. Dave Brown, Chairman, and
Members of the House Judiciary Committee

RE: SB431 - Hearing 3/23/89

The Montana Tavern Association appears in support of the concept of SB431, with the inclusion of our proposed amendments. However, we recognize that there will be other amendments offered at this hearing that, if accepted, may change the bill to such an extent that our position would have to be reassessed.

Because of the sudden death of our attorney and lobbyist, Phil Strobe, who was working on our amendments prior to his death, we respectfully ask the Committee's indulgence in allowing us to present our proposed amendments in narrative form at this point, and present them in formal language to the subcommittee.

Sec. 19, page 24, line 4 - Gambling on cash basis.

We seek clarification that a licensee who, in the normal course of doing business, cashes a check for a customer who in turn pays for drinks, food, and/or a gambling game, will not be in violation of this section.

Secs. 23 and 24, page 27 - Criminal liabilities.

MTA has unanimous opposition from its members to the severe penalties imposed in these sections for misdemeanors and felonies, particularly the second conviction felony language. These are extreme and unless they are reduced to a reasonable and fair degree commensurate with other criminal liabilities in the Montana Codes, our position on SB431 will be re-evaluated. Others will speak on this subject.

Sec. 47, page 46, lines 18-22 - Amendments to 23-5-611:

MTA's amendment will remove the option of local governments to limit, by ordinance or resolution, the number of machines to no less than five. The thrust of SB431 is to provide uniformity in gambling statewide, and because this local option provision weakens this uniformity, we will ask that this language be deleted.

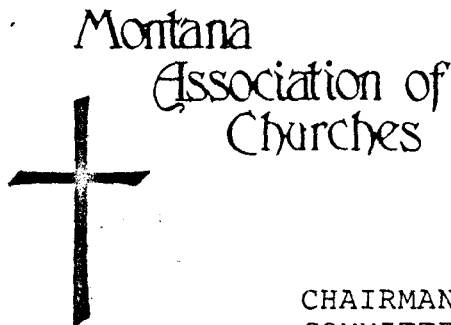
Sec. 52, page 49, line 24 - Video gambling machine manufacturer-distributor -- license -- fees.

The licensee who may be required to perform repairs on his

machine should not be required to pay a \$1,000 annual fee to do so. The title of the section does not include repairs and we will propose that the words, "or repair", following "supply" on line 24, be stricken.

* * * *

TESTIMONY PRESENTED BY ROBERT A. DURKEE, REGISTERED LOBBYIST FOR THE MONTANA TAVERN ASSOCIATION, PROFESSIONAL PLAZA, SUITE 2-AB, 900 NORTH MONTANA AVENUE, HELENA, MONTANA. (PH: 442-5040)



March 23, 1989

CHAIRMAN BROWN AND MEMBERS OF THE HOUSE JUDICIARY
COMMITTEE:

WORKING TOGETHER:

American Baptist Churches
of the Northwest

I am Mignon Waterman and I am speaking on behalf
of the Montana Association of Churches.

Christian Churches
of Montana
(Disciples of Christ)

I applaud the Montana legislature, the Department
of Justice and the Gaming Advisory Council for their
open and comprehensive review of gaming in Montana.
During the past eighteen months, the Bureau of Gaming
and the advisory council have held numerous public
meetings that were adequately noticed and that not
only provided opportunity for input but also encouraged
active participation from all interested parties.
The council sought public input through an extensive
survey conducted by Montana State University.

Episcopal Church
Diocese of Montana

Evangelical Lutheran
Church in America
Montana Synod

The result is the legislation that is before this
committee today. It provides, for the first time
in Montana's history, a statewide policy on gaming,
statewide regulation of gaming and most of all,
a clear statement of the rules and policies by which
all players in the gaming industry must abide.

Presbyterian Church (U. S. A.)
Glacier Presbytery

Presbyterian Church (U. S. A.)
Yellowstone Presbytery

I would like to mention several provisions of the
bill that the Montana Association of Churches supports.

Roman Catholic Diocese
of Great Falls - Billings

First of all, the Montana Association of Churches
strongly supports statewide regulation of gambling.

Roman Catholic Diocese
of Helena

The bill recognizes the obligation of the gaming
industry to provide assistance to those adversely
impacted by gambling by providing funding for programs
designed to treat persons with habitual gambling
problems. Hopefully this progressive provision
will curb the social costs associated with gambling.
The Montana Association of Churches believes that
early intervention in this area will benefit all
Montanans.

United Church
of Christ
Mt.-N. Wyo. Cont.

United Methodist Church
Yellowstone Conference

SB431 limits video gaming machines to premises that
have liquor licenses and we support that provision.

I am pleased to see that SB431 reaffirms the current law that mandates that any gambling activity must be on a cash basis. If a person wishes to gamble, it should be a conscious decision that is planned for far enough ahead to allow an individual to determine the amount of money that he/she can afford to gamble. The lure of "winning on the next gamble," combined with alcohol and the opportunity to use a check or credit card provide an unhealthy risk of money that either isn't available or is needed for a family's basic needs such as food, clothes and shelter.

The Montana Association of Churches supports SB431 and once again we wish to express our appreciation for the openness of the review process that led to this legislation and for the opportunity for input from all parties.

I urge a do pass recommendation for SB431.

TESTIMONY IN SUPPORT OF HB431

My name is Kay Foster and I have served for seven years as a member of the City Council of Billings and appear on behalf of the City of Billings in support of HB431.

The City of Billings is very interested in the fate of this bill. According to the last reports which I have heard the City of Billings will have received approximately \$400,000.00 as our quarterly payment of the tax revenue from poker machine revenue alone. This would indicate that approximately the same amount of money, \$16M, flows through these machines, quarter by quarter, as the City of Billings has in general fund revenue in one year.

Our City Council took an official position on this bill when it was first introduced in the Senate. There was great concern about the relinquishing of local power to investigate backgrounds and monitor the operations of those involved directly or indirectly in gambling operations. Although we do feel that we do a thorough job of investigating and licensing those directly involved in the contact with the public and handling of the money, we understand the necessity of having statewide regulations and enforcement uniformly across the state. We urge the adoption of this bill and do so with the hope that thorough investigations will continue regarding those involved in Montana gambling operations and that this law will be strictly enforced.

POLICY CONCLUSIONS OF THE STUDY
Montanans' Opinions About
Gambling Games, Regulations, and Effects

A General Summary of Policy Conclusions.

- * Regulation of gaming is desirable.
 - 74 % would limit hours.
 - 68 % would limit bets.
 - 77 % would keep video poker in bars and lounges.
 - 63 % would further limit video keno and bingo to the same locations as poker machines.
 - 73 % wouldn't allow local governments to legalize more types of games than allowed by the state.
- * Uniformity of rules and regulations is desirable.
 - 92 % want identical rules statewide.
- * Taxation of gambling is widely recognized and is desirable.
 - 85 % view gaming as an economic issue.
 - 82 % see tax revenues as a benefit.
 - 75 % want all live games taxed, equivalent to machines. However, those who are strictly opposed to gambling on moral grounds do not favor gambling more when informed about tax revenues.
- * A State Gaming Commission is desirable.
 - 76 % are in favor.

CHANGES IMPLIED BY THE STUDY
Montanans' Opinions About
Gambling Games, Regulations, and Effects

Specific Changes Implied From the Study.

- * Oversight of gaming needs to be strengthened.
 Establish a State gaming commission.
 Establish State control of enforcement.
- * Access to games is and should continue to be restricted.
 Limit types of games, hours, and location more strictly.
- * Uniformity of rules and regulations needs to be enacted.
 Uniformity throughout the State is a very consistent theme. However, a sizeable minority still want localities to be able to further restrict types of games available.
- * An economic development focus for gaming is needed.
 An economic development theme runs throughout responses. But, clearly, promotion shouldn't be a State responsibility.
- * Problems created by gambling must be addressed.
 Family, social, economic and local government problems are widely recognized.
- * Taxation of additional games needs to be enacted.
 Live games should be taxed as are video games.

Preferences for current rules.

- * Keep the current types of games authorized.
- * Keep casino-type gaming illegal.
- * Keep rules for charities and non-profit groups the same as those for commercial gaming.

Commissioners
Russell J. Ritter, Mayor
Rayleen Beaton
Tom Huddleston
Rose Leavitt
Blake J. Wordal

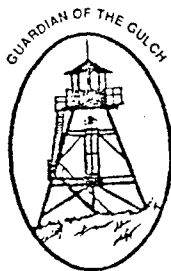


EXHIBIT 6
DATE 3-23-89
~~HB~~ SB 431

City-County
Administration Building
316 North Park
Helena, MT 59623

Phone: 406/442-9920

William J. Verwolf
City Manager

City of Helena

Mr. Chairman/Members of the Committee:

My name is Shelly Laine, and I represent the City of Helena. The Mayor and City Commissioners generally support SB431.

The Commission recognizes the need for uniform gambling standards, and this bill would provide for this. Specifically, the City takes the following stances:

1) The City supports uniform gambling hours throughout the State. The provision calling for no gambling between 2 and 8 A.M. is a good one. Allowing local jurisdictions to set different hours encourages competition between entities. For instance, if Lewis and Clark County allows 24 hour gambling while the City does not, many patrons will frequent establishments outside of the City limits. This will cause tavern owners in the City to encourage the Commission to adopt 24 hour gambling.

2) The city supports the provision that allows for up to 20 gambling machines, but allows a local jurisdiction to limit the number of video gambling machines to no less than five. Currently, the City has adopted the State limit of 20 machines, but would like to have the option to set a lesser limit in the event that the State raises the limit or circumstances change in some other way.

3) The City would support the 5% tax on gross proceeds from the operation of live keno and bingo. This would raise an estimated \$1.9 million for local governmental units. In a time of stagnant or declining tax revenues, additional revenue sources must be sought to maintain essential services.

4) The City opposes the fact that this bill only allows establishments with a liquor license to have gambling machines. This will take keno machines out of convenience stores. The City feels that stores or like establishments that have made this investment should not now be penalized. We would support an amendment to take this into account.

Thank you

REVISION OF SENATE BILL NO. 431

NEW SECTION. Section 1. Public policy of state concerning gambling. (2) The legislature adopts the policy that an applicant for a license or permit or other department approval under parts 1 through 6 of this chapter shall have the right to the issuance of a license or permit or the granting of the approval sought unless the department shall determine a valid reason for the denial of the issuance of a license or permit or approval sought. The issuance of a license or permit issued or other department approval granted pursuant to the provisions of parts 1 through 6 of this chapter is a revocable privilege revocable for cause. A holder acquires a vested right in the license or permit issued or other department granted unless a valid reason can be shown by the department for revoking it under the standards set forth herein. A license or permit issued under parts 1 through 6 of this chapter may be sold, signed, leased or transferred.

Subsection (4) line 19 should read no more than 75 numbers may be used. One number must appear in each square except for the center square which is considered a free play. Numbers and letters are RANDOMLY drawn from a receptacle and announced by a bingo caller using authorized equipment, and the game is won by the person who first covers a previously designated arrangement of numbers on the bingo card.

Subsection (18) "License" means an operator's, dealer's, or manufacturer-distributor's license issued to a person by the Department.

NEW SECTION. Section 5. Department status. The department shall designate agents of the department as granted peace officer status to investigate legal and illegal gambling activities in this state regulated by parts 1 through 6 of this chapter and the rules of the department and to report violations thereof.

NEW SECTION. Section 7. Powers and duties of department - - licensing. (1) The department shall administer the provisions of parts 1 through 6 of this chapter except that the department shall not have the power to impose criminal sanctions arising through allegations of violations of its rules and regulations.

(5) The department may suspend, revoke, deny or place a condition on a license issued under parts 1 through 6 of this chapter only after following administrative procedures set forth herein and any such action shall be subject to judicial review.

NEW SECTION. Section 8. Injunction and other remedies. (1) If it appears to the department that a person has engaged in or is about to engage in an act or practice constituting a violation of a provision of parts 1 through 6 of this chapter or a rule or order of the department, it may not

(a) Issue a temporary cease and desist order without

reasonable notice and opportunity for hearing. Following a hearing or if the person to whom the notice is addressed does not request a hearing within five (5) days after receipt of the notice, the department may apply to a judicial court for the issuance of a temporary cease and desist order and such cease and desist order shall remain in effect until a permanent cease and desist order is granted by the judicial court or until a hearing is had before the judicial court.

(b) On a proper showing, the court may grant a permanent or temporary injunction, a restraining order, or other appropriate writ and appoint a receiver or conservator for the defendant or the defendant's assets. The department may not be required to post a bond.

(c) The Court may place a licensee on probation independent of the hearing before the department and allowance for judicial review of any action taken by the department;

(d) The Court may suspend a license for a period not to exceed two years independent of the hearing before the department and allowance for judicial review of any action taken by the department;

(e) The Court may revoke a license independent of the hearing before the department and allowance for judicial review of any action taken by the department;

(f) The Court may deny renewal of a license upon its expiration independent of the hearing before the department and allowance for judicial review of any action taken by the department;

(g) The Court may impose a civil penalty not to exceed \$10,000 for each violation of a provision of parts 1 through 6 of this chapter or a rule of the department, whether or not the person is licensed by the department independent of the hearing before the department and allowance for judicial review of any action taken by the department;

(h) impose a combination of the penalties provided in subsections (1)(a) through (1)(g) independent of the hearing before the department and allowance for judicial review of any action taken by the department;

(i) The department may impose civil fines of up to \$1,000 for each violation of its rules and regulations.

NEW SECTION. Section 10. Qualifications for licensure. (2)

The applicant who presently holds a license has a presumption of being qualified to receive a license.

(3) A license shall be granted unless the department can show that the applicant is:

(a) a person of bad character, dishonesty.

(b) a person whose prior activities, criminal record, if any, reputation, habits, and associations do:

(i) pose a threat to the public interest of the state or to the effective regulation and control of gambling; or

(ii) create A DANGER of illegal practices, methods, and activities in the conduct of gambling or in the carrying on of the business and financial arrangements incidental to the conduct of gambling; and

(4) A license to operate a gambling activity shall be issued unless the department can show that the applicant has no business probity, competence and experience.

(Eliminate (b)(i))

NEW SECTION. Section 12. Judicial Review. (b) A copy of the petition must be served upon the department at the same time. When the department receives a copy of the petition, it shall certify and file in court a copy of the filing, testimony, and other evidence upon which the final order was entered by the department. When these have been filed with the court, the court has exclusive jurisdiction to affirm, modify, enforce, or set aside the final order in whole or in part. (Eliminate balance of paragraph b.)

(2)(a) The review shall be conducted by the district court and may be with or without jury. The court, upon request, shall hear oral arguments and receive written briefs.

(b) The court shall act as the court of original jurisdiction. (Eliminate balance of (b) and subsection (3).)

SECTION 13. The title should be amended to read "Losses at illegal gambling may be recovered by civil action."

SECTION 14. Discharge of Defendant.

(3) The clerk of the court shall notify the department of any adverse decision rendered against the

defendant licensee based on a violation of the provisions of this chapter.

NEW SECTION. Section 18. Obtaining anything of value by fraud or operation of illegal gambling device or enterprises. (1) A person who by gambling obtains money, property, or anything of value that does not exceed \$300 in value by misrepresentation, fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a misdemeanor.

(2) A person who by gambling obtains money, property, or anything of value that exceeds \$300 in value by misrepresentation, fraud, or the use of illegal gambling device or illegal gambling enterprise shall be prosecuted under felony charges under the criminal section of the Montana Codes.

NEW SECTION. Section 19. Gambling on cash basis. (1) In every gambling activity, EXCEPT RAFFLES AS AUTHORIZED IN (SECTION 41) the consideration paid for the chance to play must be cash. A participant shall present the money needed to play the game as the game is being played. A check, credit card, note, I O U or other evidence of indebtedness may not be offered or accepted as part of the privilege of participation in the gambling activity or as payment of a debt incurred in the gambling activity. For purposes of this Section, proceeds from a check cashed by a business operation or licensee in conjunction with the services offered by its licensed operations or unrelated gambling services or products shall not be subject

to the limitations of this section and shall not be considered to be accepted as part of the price of participation in gambling activities being conducted and licensed on the premises.

NEW SECTION. Section 23 and Section 24 allowing the imposition of criminal sanctions including imprisonment should be eliminated.

NEW SECTION. Section 25. Prosecution. The county attorney of the county in which a violation of a provision of parts 1 through 6 of this chapter occurs shall prosecute all gambling actions within the jurisdiction of the department where criminal sanctions are being attempted to be imposed or where the fines imposed exceed \$1,000 in an amount for each violation.

NEW SECTION. Section 36. Exempt charitable organizations. An organization qualified for exemption under 26 U.S.C. 501 (c)(3) and (c)(4) is exempt from taxation but shall be subject to license fees in an amount of one-half (1/2) of those imposed by this part on commercial operations. The organization shall comply with other statutes and rules relating to the operation of live bingo and keno or raffles. A qualified organization shall apply to the department for a permit to conduct charitable live bingo and keno games or raffles. The department may revoke or suspend the permit of a qualified organization that, after investigation, the department determines is contracting with a nonqualified organization to operate live bingo, keno or raffles

in a predominantly commercial manner.

NEW SECTION. Section 37. Keno callers -- qualifications -- license -- fee. (1) A person may not act as a keno caller without being licensed annually by the department.

(2) The fee for each year in which the license is effective must be commensurate with the costs associated with keno caller licensing as established by department rules. The fee may not be prorated.

(3) The department shall retain for administrative purposes the license fee charged for the issuance of a keno caller's license.

(4) A keno caller shall have on his person, and display upon request, his keno caller's license where he is working as a keno caller.

(5) The department may adopt rules to implement temporary licensing procedures until a permanent license is issued. The department may delegate the authority to issue temporary licenses to local governments, including the authority to assess and retain a fee for a temporary license.

NEW SECTION. Section 39. Bingo and Keno license fees. The licensee shall who has received a permit to operate bingo or keno games shall pay the department a base license fee of \$400 and an additional fee based upon the following schedules. An annual fee of \$300 for day of operation so that those operations which are conducting their business only one night a week will

SECTION 51 should be eliminated.

SECTION 54. Eliminate Subsection (2).

SECTION 57. Eliminate. Section 25-5-613, M.C.A. and the old laws should be reinstated except Department fines should not exceed \$1,000.

NEW SECTION. Section 58. (2) Violation of this section shall constitute a felony. (Balance OK)

SECTION 60. Penalty. Every a person who purposely or knowingly violates or who procures, aids, or abets in a violation of this part is guilty of a misdemeanor.

SECTION 64. Gaming Advisor Board. (1) There is a gaming board.

(3) The seven remaining members shall be appointed by the Senate and House of Representative member, with two representing the public at large, two representing local governments including one from the Department, and three representing the gaming industry.

pay an annual license fee of \$700 and those conducting a bingo operation seven nights a week shall pay an annual license fee of \$2,500 increments of \$300 being added to the base fee of \$400 for each day during the week a commercial operation conducts its bingo activities, progressing from 1 day through 7 days of the week.

SECTION 44. Should be eliminated in view of the fact that the judicial courts shall retain the power to impose criminal penalties for violations of this act.

NEW SECTION. Section 47. Subparagraph (3) of Subsection (b). A licensee may not have on the premises or make available on the premises more than 20 video gambling machines of any combination of keno, bingo or poker providing there shall be no more than 10 draw poker machines. (Eliminate that portion of the portion of the paragraph which allows local government to limit the number of video games to no less than five.)

NEW SECTION. Section 50. Video gambling machines specifications -- rules. The department shall require video gambling machines authorized by this part shall have at least two hard meters in addition to a soft meter which the department requires in conjunction with gaming laws adopted in the legislative session ending April 1986. The department shall adopt rules and specifications for new video gambling machines authorized by this part.

Amendment to SB 431, Third Reading Copy

Presented to the House Judiciary Committee

1. Page 3, line 18.
Strike: "does not"
Insert: "shall"
2. Page 3, line 20.
Following: "sought"
Insert: "unless the department demonstrates valid reasons for denial pursuant to [section 10]"
3. Page 3, line 23.
Strike: "revocable"
Following: "privilege"
Insert: "revocable only for good cause"
Following: "holder"
Strike: "does not acquire"
Insert: "acquires"
4. Page 3, line 25.
Following: "granted"
Insert: "unless the department demonstrates valid reasons for revocation pursuant to [section 6]"
5. Page 4, line 1.
Following: "may"
Strike: "not"
6. Page 5, line 20.
Following: "square"
Insert: ", except for the center square which may be considered a free play"
7. Page 7, line 21.
Strike: "caller's"
8. Page 11, line 8.
Strike: "are"
Insert: "may be"
9. Page 11, lines 9 and 10.
Strike: "to investigate, regulate, and control all legal and illegal"
Insert: "only for purposes of investigating"

10. Page 11, line 12.

Following: "department"

Insert: "and reporting violations to the county attorney of the county in which an alleged violation occurs"

11. Page 12, line 3.

Following: "chapter"

Insert: "except the power to impose criminal sanctions arising from violations of parts 1 through 6 of this chapter or the rules of the department. Only the district court of original jurisdiction shall have the power to impose criminal sanctions arising from violations of parts 1 through 6 of this chapter or the rules of the department."

12. Page 12, line 16.

Following: "chapter"

Insert: "only after following appropriate procedures described in [section 8]. Any action of the department to deny or place a condition on a license may be subject to judicial review"

13. Page 13, line 1.

Strike: "or is about to engage in"

14. Page 13, line 4.

Following: "may"

Insert: "not"

15. Page 13, line 5.

Strike: "with"

Insert: "without"

16. Page 13, line 9.

Strike: "issue"

Insert: "apply to the district court for"

17. Page 13, line 10.

Strike: "must"

Insert: "may"

Following: "or"

Insert: "further"

18. Page 13, line 15.

Following: "practice"

Strike: ". On proper showing, the court may"

Insert: "; or

(c) impose civil fines in excess of \$1000 for each violation of parts 1 through 6 of this chapter or the rules of the department.

(2) On proper showing, a district court may, independent of a hearing before the department: (a)"

Renumber: subsequent subsections

EXHIBIT 8
DATE 3-23-89
H/SB 431

19. Page 14, line 14.

Strike: "the fine is a lien"

Insert: "the department may seek a lien in the amount of the fine"

Following: "and"

Insert: "the fine"

20. Page 15, line 20 through page 16, line 22.

Strike: subsections (2) through (4) in their entirety

Insert: "(2) The department shall issue a license to an applicant unless the department can demonstrate the applicant is:

(a) a person whose prior activities or criminal record:

(i) pose a threat to the public interest of the state or the effective regulation and control of gambling; or

(ii) create a danger of illegal practices, methods, or activities in the conduct of gambling or in the carrying on of the business and financial arrangements incidental to the conduct of gambling; or

(b) receiving a substantial amount of financing for the proposed operation from an unsuitable source. A lender or other source of money or credit that the department finds to meet the standards of subsection (a) may be considered an unsuitable source.

(3) An applicant who holds a valid license issued under parts 1 through 6 of this chapter on [the effective date of this act] is presumed to qualify to receive a license."

21. Page 18, line 12 through 16.

Strike: language beginning "A temporary" on line 12 through "[section 8]." on line 16.

22. Page 18, line 17 through page 19, line 21.

Strike: subsections (2) and (3) in their entirety

Insert: "(2) (a) The district court in the county of the aggrieved person's residence is the court of original jurisdiction.

(b) The court may conduct its review with or without jury. The court, upon request, shall hear oral arguments and receive written briefs."

23. Page 19, line 23.

Following: "Losses at"

Insert: "illegal"

24. Page 21, line 25.

Strike: "a civil action"

Insert: "any adverse decision rendered against a defendant"

25. Page 23, lines 18 and 19.
Following: "misdemeanor"
Insert: "."
Strike: the remainder of lines 18 and 19
26. Page 23, line 24.
Strike: "and is punishable as provided in [section 24]"
Insert: "and may prosecuted under ~~[the fraud or felony provisions of Title 49]~~ 45-6-301."
27. Page 24, line 8.
Following: "activity."
Insert: "For purposes of this section, proceeds from a check cashed by a licensee for goods or services other than those regulated by parts 1 through 6 of this chapter shall not be subject to the limitations of this section and shall not be considered to be accepted as a part of the price of participation in gambling activities being conducted on the licensee's premises."
28. Page 24, line 10.
Following: "misdemeanor"
Insert: "."
Strike: the remainder of lines 10 and 11
29. Page 24, line 17.
Following: "misdemeanor"
Insert: "."
Strike: the remainder of lines 17 and 18
30. Page 27, lines 1 through 16.
Strike: sections 23 and 24 in their entirety
Re-number: subsequent sections
31. Page 27, lines 21 through 24.
Following: "department."
Strike: remainder of lines 21 through 24
32. Page 33, lines 2 and 3.
Strike: "punishable pursuant to [section 23]"
33. Page 33, line 13.
Strike: "and license fees"
Following: "part"
Insert: ", but shall pay license fees of one-half the amount of those imposed by this part on commercial operations"

34. Page 33, line 23.
Strike: "Bingo and keno"
Insert: "Keno"
35. Page 33, line 25 through page 34, line 11.
Strike: "bingo or" whenever it appears
36. Page 35, lines 3 through 5.
Strike: "gross proceeds tax -- records"
Insert: "license tax"
Strike: "-- quarterly statement and payment"
37. Page ³⁵~~33~~, lines 7 through 20.
Following: "department" on line 7
Strike: remainder of subsection (1) and subsections (2) and (3) in their entirety
Insert: "an annual license tax of \$400 plus an additional incremental annual license tax of \$300 for each day of the week the permit holder conducts bingo or keno games. The annual bingo or keno license tax shall not exceed \$2500."
38. Page 39, line 25 through page 40, line 9.
Strike: section 44 in its entirety
Renumber: subsequent sections
39. Page 46, line 12.
Strike: "10 keno or bingo"
Insert: "20 video gambling"
40. Page 46, lines 13 and 14.
Strike: "and"
Insert: ", providing there shall be no more than"
41. Page 46, lines 18 through 22.
Strike: "In the" on line 18 through "section." on line 22
42. Page 49, line 10.
Following: "part."
Insert: "The rules adopted by the department stating specifications for video gambling machines shall substantially follow the applicable specifications of 23-5-606, 23-5-607, 23-5-608, and 23-5-609 on [the effective date of this act]."
43. Page 49, line 23.
Following: "manufacture,"
Insert: "or"

EXHIBIT 8
DATE 3-23-89
58 431

44. Page 43, line 24.

Following: "supply"

Strike: ", or repair"

45. Page 52, line 15.

Strike: "as shown on a valid ticket voucher"

46. Page 54, line 3.

Following: "misdemeanor"

Strike: "punishable under [section 23]"

47. Page 55, lines 12 and 13.

Strike: "and must be punished in accordance with [section 24]."

48. Page 56, line 12.

Strike: "punishable pursuant to [section 23]"

Amendments to Senate Bill No. 431
Third Reading Copy

Requested by Representative Pavlovich
For the House Judiciary Committee

Prepared by Eddye McClure
March 23, 1989

1. Page 26, line 24.

Following: line 23

Insert: "(4) A licensed manufacturer-distributor may possess and
sell an antique slot machine."

Renumber: subsequent subsections

SB 431

3/23/89

WITNESS STATEMENT

NAME Lynn M. Feeley BILL NO. SB 431

ADDRESS PO Box 1623, Great Falls, Mont

WHOM DO YOU REPRESENT? CASCADE County Town Assn

SUPPORT ☒ OPPOSE ☒ AMEND ☒

COMMENTS: Support Regulation & uniformity
of gambling laws in the State of
Montana. Oppose concentrating the
powers of legislation, prosecution
trial & imposition of sanctions
including imprisonment for two
years in the hands of one
department.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

DO NOT REMOVE!!

VISITORS' REGISTER

Judiciary

COMMITTEE

BILL NO. _____

DATE 3/23/89

SPONSOR SB 431 1044

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Doug Lovell	634 Ave C, Billings, MT ^{J9102}	X w/ ^{Amend.}	
Jim O. Eklund	501 Northside Building	X	
J. S. Murphy	1800 - 3 rd St NW ^{Great Falls}		X
R. C. Murphy	5315 2 nd St N - Great Falls		X
Ray Foster	City of Billings	X	
STUART J. McARDIE	1701 Hwy. 93 S, KALISPELL	X	
HAROLD HANSEN	629 Ave C Billings	X	
Sid Smith	3425 Highway 12 E H/W		X
Art Lundberg	245. Lusk Ave S	X	
Mike Schuler (Mt. Wolf + Home Office Chairman)	PO Box 2636 KALISPELL	X	
G. L. "Andy" ANDERSON	KALISPELL	X	
Randy Reger	13193 NW 61A	X with ^{Amend.}	
Jack Landreche	Elgin, MT	X with ^{Amend.}	
Jim Nugent	Missoula 201 W. Spruce	X with ^{Amend.}	
Terry G. Will	8320 Green Meadows Rd NW	X with ^{Amend.}	
MARK TRAPTON	Cascade Co. Trv. Assoc.		X
Rick Day	Dept. of Revenue Helena		
HAROLD BITTNER	2812 BANCROFT MISS	X with ^{Amend.}	
JEFFREY RENE	ACLU/MT - R/ls		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Judiciary

COMMITTEE

BILL NO. SB 431 2054DATE 3/23/89

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Mayor John Ed Kennedy Jr.	Kalispell, MT	X	
Barb Durkee	LTA	X	
Phil Hornung	MT 17		X
John Tomian	765 3317 Ave 67 Falls		X
Steve W. H. W.	MTA	X	
Barbara Foster	Head Falls COTA		X
Jane Spontegun	MTA COTA Kit Falls		X
James Mills	MTA COTA W. Falls		X
Tim Barbour	Gr. Falls		X
Chester Bullock	Basin		X
Rose Lee Bullock	Tri County Tugay ^{h. Broadent} ^{Jefferson}		X
MICHAEL C. TRACED	COTA VILLAGE 3 N W PITHA-TIME RAL	X	
WACHT JACOB H.	Butte		X ^{AS W. L. T. 194}
Barb Schopp F	Kalispell	X	
John W. Neaper	Bozeman	X	
Wm. L. G. G. G.	Great Falls		X
Steve	Whitefish	X	
Gundale Lefavour	Missoula	X	
Ray D. Beach	Missoula	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Judiciary

COMMITTEE

BILL NO. SB 431 3044DATE 3/23/89

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
MARK BRETZ	610 OVERLOOK WAY MISSOULA MT	X	
VERN ARLOW	1100 CREEK CROSSING MISSOULA	X	
PATRICIA MARTIN	BIG BOGS & SISTERS	X	
Ernie Grasseschi	M.T.A.		X
Wm. J. WARE	221 Breckridge, Helena	X	
BERRY GYARSON	114 Lomond, Glasgow	X	
Roger Knutson	323 S/24 Billings	X	
Mignon Waterman	Mt. Assoc. of Churches	X	
Bond Larson	M.T.A.	X	
Troy W. Miller	Helena		X
Tracy Kuehner	Superior		X
Richard E. Manning	Senate Dist #18		X
Kathy Carroll	Self	✓	
Terry Cook	Self - Libby -	✓	
Theresa Crocker	Libby	✓	
"Sandy" Keith	Butte		✓
Rod Williams	Bozeman		✓
LARRY AKEY	VIDEO KENO COALITION-I		✓
Tom Heister	GREAT FALLS MTA MEMBER		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Judiciary

BILL NO. SB 431 404 DATE 3/23/89

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dave Brown, on April 6, 1989, at
10:15 a.m.

ROLL CALL

Members Present: All members were present with the following
exception:

Members Excused: Rep. Kelly Addy

Members Absent: None.

Staff Present: Julie Emge, Secretary
John MacMaster, Legislative Council

Announcements/Discussion: Executive Action on SB 431.

DISPOSITION OF SENATE BILL 431

Motion: Rep. Strizich moved SB 431 BE CONCURRED IN, motion
seconded by Rep. Gould.

Discussion: Rep. Brown stated that the committee would examine
SB 341, third reading copy (gray bill) with amendments
(EXHIBIT 1).

Rep. Brown stated that the guidelines the committee set out to
accomplish in this legislation is to create uniformity
statewide. The subcommittee wanted to assure that existing
gambling practices stayed in affect as much as possible by
this legislation, but no new practices or expansions are to
be added to gambling to any great extent. SB 431 does not
expand gambling in the state of Montana. Rep. Brown
commented that the Attorney General asked the committee to
put in the latter part of the bill to make it clear that he
will enforce this law strictly. Rep. Brown stated that the
committee did not add poker-all keno because it would be an
expansion of gambling.

Rep. Brown stated that line 17, page 36 should be struck.

Attorney General Marc Racicot stated that they brought this
forward to strike a balance between the things that the
department can do on its own administratively with the due
process of the concerns of the industry. He presented Larry
Akey amendments to SB 431 (EXHIBIT 2).

Amendments, Discussion, and Votes: Rep. Strizich moved amendments proposed by Larry Akey (EXHIBIT 2), motion seconded by Rep. Gould.

Rep. Brown asked Mr. Akey whether he had any problems with the Attorney General's position. Mr. Akey stated that with the reinsertion of the language in subsection b, subsection 3 and subsection 4, including the addition of gambling device enterprise or activity, the Attorney General's changes to these proposed amendments are good changes. The important thing to make clear is that the imposition of administrative sanctions come only pursuant to the contested case hearing provisions for Montana Administrative Procedures Act. That imposition of any penalties under the subsection are in fact, reviewable by the District Court. With the reinsertion of the language, the AG's changes are good changes.

A vote was taken on the proposed amendments and CARRIED unanimously.

Rep. Eudaily moved to strike the language on page 46, line 12 of the gray bill and insert, "no more than a combined total of 20 keno, bingo and draw poker machines of which the total shall not exceed 10 draw poker machines." This amendment will allow for 20 machines, as many keno machines as they want to have, but they cannot have more than 10 poker machines. Motion seconded by Rep. Eudaily.

Rep. Hannah questioned Rep. Daily as to why he is concerned that they would go to all poker machines. Rep. Daily stated that he thinks that Montana will go to more open gambling. He said if they limit it to 10, then they protect the small to average tavern owner that has poker machines.

Rep. Mercer asked what the arguments are on why the committee should restrict this. They should be able to have 20 machines, whatever kind of machines they want. Rep. Pavlovich stated that the consensus at the MTA convention was that there would be a total of 20 machines, a combination of no more than 10 poker machines. He said that he felt that it would hurt the small taverns.

Rep. Daily stated that if any of them have ever been into a casino or a bar where they have poker machines or keno machines, there is an obvious difference as to which machines are being played the most.

Question was called on Rep. Daily's amendments and CARRIED unanimously.

Rep. Boharski moved to eliminate the language on page 46, lines 18 - 22, and strike the subcommittee's reinsertion on section 32 and section 56.

A vote was taken on Rep. Boharski's proposed amendments and CARRIED with Rep. Gould voting against the motion.

Rep. Hannah asked how the committee is leaning on uniformity. Rep. Brown stated that the only single additional game included in the name of uniformity was the jacks or better card game. They eliminated poker-all keno because a majority of places don't allow it now.

Rep. Mercer stated that he supports the motion because he agrees with equalization. He asked why the committee is going to allow the hours to be regulated. The language that they are reinserting where it says 8:00 a.m. to 2:00 a.m., does that allow then for the gambling establishment to be opened 24 hours as well as to be restricted to say 9:00 a.m. to 5:00 p.m.? Rep. Daily stated that it says it may be open from 8:00 a.m. to 2:00 a.m. and they may be open 24 hours, but local option, they can't close earlier.

Rep. Brown stated that uniformity and actual practice is what they tried to deal with as best they could to equalize it on that basis. The 8:00 a.m. to 2:00 a.m. has been the standard uniformity as that has been in the state and they are retaining it, and actual practice has been because of the existing statute.

Rep. Gould stated that he opposes Rep. Boharski's amendment. He commented that in most towns, there are stores and hospitals that are open 24 hours a day. The loss of revenue per year between 2:00 a.m. and 8:00 a.m. is approximately \$80,000.

Rep. Daily moved a substitute motion to amend page 32, line 2 - 5 where the language has been stricken, on line 4 following "ordinance", strike the language and insert: the local government may adopt an ordinance allowing play between the hours of 2:00 a.m. and 8:00 a.m. each day. Motion was seconded by Rep. McDonough.

Rep. Hannah asked Rep. Daily if his amendment is intended to say that all gaming will be shut down between the hours of 2:00 a.m. and 8:00 a.m. unless the local government allows otherwise. Rep. Daily said yes.

Continuing, Rep. Hannah asked Rep. Daily, under SB 431 as currently drafted, is all gaming allowed between the hours of 2:00 a.m. and 8:00 a.m.? Rep. Daily said none of it is unless the local government wants to do it.

A vote was taken on Rep. Daily's substitute motion and CARRIED with Rep. Brown voting No.

Marc Racicot stated that on page 61, line 13 and line 20 on the implementation and reorganization, it mentions the Department of Commerce. The Dept. of Commerce does receive the authorization or the appropriation of funds in this

area; however, they do contract with the Dept. of Revenue for all of their investigations in the FTE's for the investigation side of this project in revenue. Include line 13 adding an s to the word department and following the word "commerce", insert and revenue, and the same on line 20 (EXHIBIT 3).

- Rep. Gould moved Attorney General Racicot's proposed amendments, motion seconded by Rep. Strizich. Motion CARRIED unanimously.
- Rep. Hannah said that following page 48, the bill deals with those locations that were mentioned that have machines now, the grandfather clause. He asked what does section 23-5-611 deal with? Randy Reagor said all that is needed to have a video keno machine is a consumable product in their establishment, a coke machine is a consumable product. Section 23-5-611 deals with poker machines and the other establishments have bingo and keno machines.
- Rep. Hannah asked if SB 431 allows or has flexibility in it enough to allow for when a new keno machine is invented that it will be covered by the law. Rep. Brown said yes, that is what they tried to do in changing the definition.
- Rep. Mercer stated that there was not a desire to make this into a property right, but they should think about the neighborhood grocery store that perhaps might have two machines and it makes a difference between closing it and staying in business. Should they allow the permit to be transferred at least to family members? Rep. Daily stated that on the extra page following 48, instead of saying "a person", they may want to insert a firm or a place of business.
- Rep. Daily moved on line 1, strike "person", insert an establishment who, on January 15, 1989, legally operated one or more video, bingo or keno gambling machines. Strike "in an establishment not", strike subparagraph 2 "for the purpose of which was not gaming and who has been granted an operators license under section 3 may be granted a permit for the placement for the same number of machines its premises operated". Strike "as he" operated on January 15, 1989. Strike "person", insert establishment may not transfer the permit to other premises or to another establishment.
- Rep. Mercer stated that if they strike "or to another person" at the end of the line then they would be saying the person may not transfer the permit to other premises. What if it is the individual who has the license and the may not transfer it to other premises, can they transfer their premises and the permit to another person if they delete that?

Rep. Brown asked the committee if they want to have the machines that are grandfathered stay within the place they are in and if the business itself ceases to exist, then the machine goes. As long as the business is there the machine stays.

The committee had a unanimous consent on Rep. Daily's and Rep. Strizich's motion to prepare an amendment for approval for this provision.

Recommendation and Vote: Rep. Daily moved SB 431 BE CONCURRED IN AS AMENDED, motion seconded by Rep. Aafedt.

Rep. Mercer moved to amend page 11, line 18 following "organization" insert other than a fraternal organization. Motion was seconded by Rep. Daily.

Rep. Strizich commented that the only concern he has with that amendment is whether or not the individual has financial responsibility or not.

Rep. Mercer withdrew his amendment.

Rep. Mercer then moved to insert other than fraternal or other non-profit organizations. If the concern is over the appearance of impropriety, there is no difference between liquor laws and gambling laws. Motion seconded by Rep. Daily.

A vote was taken on Rep. Mercer's proposed amendment and CARRIED with Rep.'s Strizich, Gould and Rice voting Nay.

Rep. Boharski referring to page 36 where the insert was added, questioned if that was an expansion of gambling? Rep. Brown stated that this amendment says that a person can go to the counter and purchase one set of four numbers for whatever amount of games the house allows so that they can stay seated at their table without getting up.

Rep. Boharski asked that on page 35 there be a new taxing scheme. Growth proceeds minus equipment, supplies and advertising, so they can write that off and not get any taxes. Rep. Brown commented that they didn't include heat, building utilities and those types of things. It is entirely possible that particularly on smaller operations that they won't pay a fee if they don't make a profit in that given year. It is tied to the data they use for reporting the federal income tax.

Rep. Boharski moved to use the net income but not less than 1% of gross proceeds.

Rep. Strizich stated that he would argue that they are going to get a tax on this. If they are defrauding the Dept. of Justice in the collection of these taxes, then they are defrauding the IRS. If they misrepresent their overheads to

April 6, 1989

Page 6 of 6

the IRS, they will have more than the Dept. of Justice on them.

Rep. Boharski stated that he isn't saying the person is necessarily going to be defrauding anyone, maybe he will do it completely legitimate. They should collect at least the first 1% of the proceeds.

Rep. Mercer stated that he supports the motion.

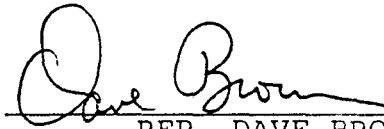
A vote was taken on Rep. Boharski's amendment and CARRIED unanimously.

There was no further discussion on the bill.

A voice vote was taken on the motion that SB 431 BE CONCURRED IN AS AMENDED and CARRIED unanimously.

ADJOURNMENT

Adjournment At: 12:40 p.m.

A handwritten signature in cursive script, appearing to read "Dave Brown", is written over a horizontal line.

REP. DAVE BROWN, Chairman

DB/je

7708.min

DAILY ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date APRIL 6, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN			X
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

STANDING COMMITTEE REPORT

April 10, 1989

Page 1 of 13

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 431 (third reading copy -- blue), with statement of intent attached, be concurred in as amended .

Signed: 
Dave Brown, Chairman

[REP. STRIZICH WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Title, line 10.

Following: "~~APPROPRIATION;~~"

Insert: "PROVIDING FOR STATUTORY APPROPRIATION;"

2. Title, line 11.

Following: "~~17-7-502,~~"

Insert: "17-7-502,"

3. Page 3, line 13.

Strike: "and fund"

4. Page 3, line 23.

Strike: "revocable"

Following: "privilege"

Insert: "revocable only for good cause"

5. Page 3, lines 23 through 25.

Strike: "A holder" on line 23 through "granted." on line 25

6. Page 5, lines 6 through 14.

Strike: "the receptacle" on line 6 through "bingo" on line 14

Insert: "equipment that may be inspected by the department and that randomly selects the numbers or symbols"

7. Page 5, line 15.

Strike: "game of chance"

Insert: "gambling activity"

8. Page 5, line 19.

Following: "75 numbers"

Insert: "or symbols"
Following: "One number"
Insert: "or symbol"

9. Page 5, line 21.
Following: "play"
Insert: ", except for the center square, which may be considered
a free play"
Strike: "and letters"
Insert: "or symbols"

10. Page 5, lines 22 and 23.
Strike: "from a receptacle and announced by a bingo caller"

11. Page 5, line 23.
Strike: ", and"
Insert: "until"

12. Page 5, line 24.
Following: "the person"
Insert: "or persons"
Strike: "covers"
Insert: "cover"

13. Page 5, line 25.
Following: "numbers"
Insert: "or symbols"

14. Page 6, lines 1 and 2.
Strike: "licensed by the department to work as a live bingo
caller"
Insert: "18 years of age or older"

15. Page 6, line 3.
Strike: "objects"
Insert: "numbers or symbols"

16. Page 7, line 15.
Following: line 14
Insert: "at least"

17. Page 7, lines 16 and 17.
Strike: "licensed by the department to work as a live keno
caller"
Insert: "18 years of age or older"

18. Page 7, line 21.
Strike: "caller's"

Insert: "or symbols"
Following: "One number"
Insert: "or symbol"

9. Page 5, line 21.
Following: "play"
Insert: ", except for the center square, which may be considered
a free play"
Strike: "and letters"
Insert: "or symbols"

10. Page 5, lines 22 and 23.
Strike: "from a receptacle and announced by a bingo caller"

11. Page 5, line 23.
Strike: ", and"
Insert: "until"

12. Page 5, line 24.
Following: "the person"
Insert: "or persons"
Strike: "covers"
Insert: "cover"

13. Page 5, line 25.
Following: "numbers"
Insert: "or symbols"

14. Page 6, lines 1 and 2.
Strike: "licensed by the department to work as a live bingo
caller"
Insert: "18 years of age or older"

15. Page 6, line 3.
Strike: "objects"
Insert: "numbers or symbols"

16. Page 7, line 15.
Following: line 14
Insert: "at least"

17. Page 7, lines 16 and 17.
Strike: "licensed by the department to work as a live keno
caller"
Insert: "18 years of age or older"

18. Page 7, line 21.
Strike: "caller's"

19. Page 11, line 9.

Following: "status"

Insert: ", with the power of search, seizure, and arrest,"

20. Page 11, lines 9 and 10.

Strike: ", regulate, and control all legal and illegal"

21. Page 11, line 12.

Following: "department"

Insert: "and to report violations to the county attorney of the county in which they occur"

22. Page 11, line 14.

Following: "department"

Insert: ", a former department employee during the first 365 days following termination of employment,"

23. Page 11, line 15.

Strike: "OTHER PERSON"

Insert: "peace officer or prosecutor"

24. Page 11, line 18.

Following: "organization"

Insert: ", other than a nonprofit corporation or organization,"

25. Page 12, line 25 through page 14, line 20.

Strike: "it appears" on line 25 through page 14, line 20

Insert: "a person has engaged or is engaging in an act or practice constituting a violation of a provision of parts 1 through 6 of this chapter or a rule or order of the department, the department may:

(a) issue a temporary order to cease and desist from the act or practice for a period not to exceed 60 days; and

(b) following notice and an opportunity for hearing, and with the right of judicial review, under the Montana Administrative Procedure Act:

(i) issue a permanent order to cease and desist from the act or practice, which order remains in effect pending judicial review;

(ii) place a licensee on probation;

(iii) suspend for a period not to exceed 180 days a license or permit for the gambling activity, device, or enterprise involved in the act or practice constituting the violation;

(iv) revoke a license or permit for the gambling activity, device, or enterprise involved in the act or practice constituting the violation;

(v) impose a civil penalty not to exceed \$10,000 for

April 10, 1989

Page 4

each violation, whether or not the person is licensed by the department; and

(vi) impose any combination of the penalties contained in this subsection (1)(b); and

(c) bring an action in district court for relief against the act or practice. The department may not be required to post a bond. On proper showing, the court may:

(i) issue a restraining order, a temporary or permanent injunction, or other appropriate writ;

(ii) suspend or revoke a license or permit; and

(iii) appoint a receiver or conservator for the defendant or the assets of the defendant.

(2) A civil penalty imposed under this section must be collected by the department and deposited in the state's general fund as required by 23-5-123. If a person fails to pay the civil penalty, the amount due is a lien on the person's licensed premises and gambling devices in the state and may be recovered by the department in a civil action."

26. Page 15, lines 7 through 14.

Strike: "a special" on line 7 through "problems" on line 14

Insert: "the state's general fund"

27. Page 15, line 18.

Following: "may"

Insert: ", based on information available to, required by, or supplied to the department under department rules,"

28. Page 15, line 20 through page 16, line 22.

Strike: subsection (2) in its entirety

Insert: "(2) The department shall issue a license unless the department can demonstrate that the applicant is:

(a) a person whose prior activities or criminal record:

(i) poses a threat to the public interest of the state or the effective regulation and control of gambling; or

(ii) creates a danger of illegal practices, methods, or activities in the conduct of gambling or in the carrying on of the business and financial arrangements incidental to gambling; or

(b) receiving a substantial amount of financing for the proposed operation from an unsuitable source. A lender or other source of money or credit that the department finds to meet the provisions of subsection (2)(a) may be considered an unsuitable source."

29. Page 18, line 13.

Strike: "must"

Insert: "may"

30. Page 18, line 14.
Strike: "and cannot be set aside by the court"
31. Page 19, line 23.
Following: "losses at"
Insert: "illegal"
32. Page 21, line 25.
Following: "of a"
Insert: "judgment in a"
33. Page 24, line 2.
Strike: "[SECTION 41]"
Insert: "23-5-413"
34. Page 24, line 8.
Following: "activity."
Insert: "The use of a check or credit card to pay for other goods
or services in the establishment or to obtain cash is not a
violation of this section."
35. Page 26, lines 13 through 16.
Strike: "An" on line 13 through line 16
Insert: "For the purposes of this section, an antique slot
machine is a slot machine manufactured prior to 1950, the
operation of which is exclusively mechanical in nature and
is not aided in whole or in part by any electronic means."
36. Page 26, line 23.
Following: "city."
Insert: "A licensed manufacturer-distributor may possess and sell
antique slot machines."
37. Page 27, line 5.
Following: "conviction"
Insert: "of a first offense"
Strike: "less"
Insert: "more"
38. Page 27, lines 5 through 7.
Strike: "or more" on line 5 through "violation" on line 7
39. Page 27, line 7.
Following: "."
Insert: "Upon a second conviction within 5 years of a first
conviction, a person must be fined not more than \$1,000 or
imprisoned in the county jail for not more than 6 months, or
both. Upon a third conviction within 5 years of a second
conviction, a person must be fined not more than \$10,000 or

April 10, 1989

Page 6

imprisoned in the county jail for not more than 1 year or both. Upon a fourth conviction within 5 years of a third conviction, a person must be fined not more than \$10,000 or imprisoned in the county jail for not more than 1 year, or both, and the department shall revoke all licenses and permits the person holds under parts 1 through 6 of this chapter and the person is forever barred from receipt of any license or permit under this chapter. When 5 years have passed following a conviction, the record of that conviction may be made available only to criminal justice agencies or upon court order."

40. Page 27, lines 13 through 16.

Strike: "However" on line 13 through end of line 16

41. Page 28, line 7.

Following: "poker"

Insert: "(including jacks or better)"

42. Page 28, line 24.

Strike: "each"

Insert: "the first"

43. Page 28, line 25 through page 29, line 2.

Strike: "must be" on line 25 through "rules" on page 29, line 2

Insert: "is \$75, and the annual renewal fee is \$25"

44. Page 29, line 9.

Strike: "may"

Insert: "shall"

45. Page 29, line 11.

Following: "dealer."

Insert: "The rules must provide that a temporary license may be obtained at the place where a person locally applies for a driver's license and that the receipt received upon mailing an application for a permanent license by certified mail, return receipt requested, also constitutes a temporary license."

46. Page 29, lines 11 through 13.

Strike: "delegate" on line 11 through "authority to" on line 13

Insert: "not"

Following: "assess" on line 13

Strike: "and retain"

47. Page 30, line 1.

Following: ";

Insert: "and"

48. Page 30, line 2.

Strike: "\$750"

Insert: "\$500"

49. Page 30, lines 2 and 3.

Strike: "the second" on line 2 through "third and" on line 3

50. Page 30, line 17.

Following: "~~treasury.~~"

Insert: "The local government portion of this fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury."

50. Page 32, line 5.

Following: "~~jurisdiction.~~"

Page 39, line 24.

Page 53, line 13.

Following: "~~section 23.~~"

Insert: "However, in the jurisdiction of a local government where a game is played, the local government may adopt an ordinance allowing play between 2 a.m. and 8 a.m."

52. Page 33, line 12.

Following: "and (c)(4)"

Insert: "on January 15, 1989,"

53. Page 33, line 13.

Following: "part."

Insert: "An organization qualified for exemption under that section after that date is exempt from taxation under, and need only pay one-half the license fees under, this part if the organization carries on gambling activities for no more than 60 days a calendar year and if the activities are limited to its main premises or place of operations and to events at other places operated by other charitable organizations or by a government unit or entity."

54. Page 33, line 23 through page 34, line 17.

Strike: section 37 in its entirety

Renumber: subsequent sections

55. Page 35, lines 3 and 4 and line 18.

Strike: "gross proceeds"

56. Page 35, line 7.

Strike: "gross proceeds"

Insert: "net income"

April 10, 1989

Page 8

57. Page 35, line 9.

Following: "premises."

Insert: "For purposes of this section, "net income" means gross proceeds, as defined in 23-5-101, minus the cost of equipment, supplies, personnel, and advertising allocated to the games. If in any year 5% of net income does not equal 1% of gross proceeds, then the licensee shall pay a tax of 1% of gross proceeds."

58. Page 35, lines 10 and 16.

Following: "gross proceeds"

Insert: "and net income"

59. Page 35, lines 14 and 15.

Strike: ", within 15 days after the end of each quarter,"

Insert: "annually"

60. Page 35, line 19.

Strike: "quarter"

Insert: "year"

61. Page 36, line 5.

Following: "~~treasury.~~"

Insert: "The tax collected under subsection (3) is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury."

62. Page 36, line 17.

Following: "award."

Insert: "A player may give the caller a card with instructions on the card to play that card and its marked numbers for up to the number of successive games that the house allows and that the player has indicated on the card, upon payment of the price per game times the number of successive games indicated. The caller shall keep the card until the end of the number of games indicated, and the department may by rule provide that at that time the caller shall pay the player any prizes won."

63. Page 43, line 16.

Following: "makes,"

Insert: "or"

64. Page 43, lines 16 and 17.

Strike: ", or repairs"

65. Page 43, line 25.

Following: "the"

Insert: "number of approved"

66. Page 44, line 7.
Following: "Only"
Insert: "the number of approved"

67. Page 45, line 6.
Following: "~~Only a~~"
Insert: "(a)"

68. Page 45, line 13.
Following: "premises."
Insert: "(b) A person who has been granted an operator's license under [section 11] and is not entitled to a permit under subsection (1)(a) may be granted a permit for the placement of up to two video keno or bingo gambling machines in his premises if the premises have been licensed for the sale of food, cigarettes, or any other consumable product other than liquor or beer. If only one machine is allowed under subsection (1)(c), one more may be allowed under this subsection (b)."

(c) If video keno or bingo gambling machines were legally operated on a premises on January 15, 1989, and the premises were not on that date licensed under 16-4-401(2) or operated for the principal purpose of gaming and there is an operator's license for the premises under [section 11], a permit for the same number of video keno or bingo gambling machines as were operated on the premises on that date may be granted to the person who held the permit for such machines on those premises on that date; to an ancestor, descendant, sibling, or spouse of that person; or to a person who purchases or leases the business that is on the premises. If the business is moved to another premises, the permittee remains eligible for the same number of permits.

(d) "

69. Page 46, line 12.
Strike: "10 KENO AND BINGO"
Insert: "20"

70. Page 46, line 13.
Following: "AND"
Insert: "no more than"
Following: "10"
Insert: "may be"

71. Page 46, lines 18 through 22.
Strike: "IN THE" on line 18 through the end of line 22

72. Page 47, line 7.

Strike: "each"
Insert: "an approved"

73. Page 47, line 11.
Following: "machine"
Insert: "permit"

74. Page 48, line 1.
Following: "~~1989.~~"
Insert: "(4) A used keno machine may be licensed under subsection (1) without meeting the requirements of 23-5-609 if the applicant for licensure can establish to the satisfaction of the department that, on the date of application, he owns or possesses a machine that was owned or operated in the state prior to June 30, 1987. A license issued under this subsection expires for all purposes no later than June 30, 1989."

75. Page 49, line 10.
Following: "part."
Insert: "The specifications in the rules must substantially follow the specifications contained in 23-5-606 and 23-5-609 as those sections read on September 30, 1989. The department shall adopt rules allowing video gambling machines to be imported into this state and used for the purposes of trade shows, exhibitions, and similar activities."

76. Page 49, line 15.
Following: "department"
Insert: "which specification or requirement existed at the time the machine was approved"

77. Page 49, line 24.
Following: "~~distribute~~"
Insert: "or"
Following: "supply"
Strike: ", or repair"

78. Page 52, line 11.
Strike: "\$100"
Following: "~~a hand or \$800~~"
Insert: "\$800"

79. Page 53, lines 24 and 25.
Strike: "or a rule promulgated"
Strike: "by the department" on line 25

80. Page 59, line 9.

Following: line 8

Insert: "Section 62. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition --
requisites for validity. (1) A statutory appropriation is an
appropriation made by permanent law that authorizes spending
by a state agency without the need for a biennial
legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be
effective, a statutory appropriation must comply with both of
the following provisions:

(a) The law containing the statutory authority must be
listed in subsection (3).

(b) The law or portion of the law making a statutory
appropriation must specifically state that a statutory
appropriation is made as provided in this section.

(3) The following laws are the only laws containing
statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-
203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-
31-702; 15-36-112; 15-65-121; 15-70-101; 16-1-404; 16-1-410;
16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504;
19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-
512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-4-109;
20-6-406; 20-8-111; 23-5-610; [section 29], [section 38],
23-5-1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-
6-150; 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123;
80-2-103; 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412;
90-4-215; 90-9-306; 90-15-103; section 13, House Bill No.
861, Laws of 1985; and section 1, Chapter 454, Laws of 1987.

(4) There is a statutory appropriation to pay the
principal, interest, premiums, and costs of issuing, paying,
and securing all bonds, notes, or other obligations, as due,
that have been authorized and issued pursuant to the laws of
Montana. Agencies that have entered into agreements
authorized by the laws of Montana to pay the state
treasurer, for deposit in accordance with 17-2-101 through
17-2-107, as determined by the state treasurer, an amount
sufficient to pay the principal and interest as due on the
bonds or notes have statutory appropriation authority for
such payments. (In subsection (3): pursuant to sec. 15, Ch.
607, L. 1987, the inclusion of 15-65-121 terminates June 30,
1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion
of 39-71-2504 terminates June 30, 1991; and pursuant to sec.
6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.
1987, terminates July 1, 1988.)"

Renumber: subsequent sections

81. Page 59, line 24.

Strike: "TWO"

Insert: "one"

82. Page 59, line 25.

Following: "GOVERNMENTS,"

Insert: "one being a Native American,"

83. Page 60, line 3.

Strike: "2-YEAR"

Insert: "3-year"

Following: "OFFICE"

Insert: ", except that three of the first-appointed original members shall serve a 1-year term, three (including both legislative members) shall serve a 2-year term, and three shall serve a 3-year term"

84. Page 61, line 3.

Following: "STATE."

Insert: "The department and council shall submit the two most recent department and council reports to each of the next two regular sessions of the legislature."

85. Page 61, line 10.

Following: line 9

Insert: "(9) The department shall give each council member notice and a copy of each proposed change in administrative rules relating to gambling. The notice and copy must be given at the time a notice of proposed rules changes is filed with the secretary of state. The council shall review the proposal, may comment on it, and may attend any hearing on the proposal. The department shall consider any comment by any council member or by the council as a whole prior to adopting the proposed change.

NEW SECTION. Section 65. Construction. In view of Article III, section 9, of the Montana constitution, [this act] must be strictly construed by the department and the courts to allow only those types of gambling and gambling activity that are specifically and clearly allowed by [this act]."

Renumber: subsequent sections

86. Page 61, lines 13 and 20.

Following: "commerce"

Insert: "and the department of revenue"

87. Page 62, line 25.

Page 63, line 3.

Strike: "39"

Insert: "38"

Strike: "43"

Insert: "42"

88. Page 63, lines 4 and 7.

Strike: "50"

Insert: "49"

Strike: "56"

Insert: "55"

Strike: "58"

Insert: "57"

89. Page 63, line 14.

Following: line 13

Insert: "NEW SECTION. Section 71. Coordination instruction.

(1) The reference copy of House Bill No. 576 of the 51st legislature is amended to insert, on page 2, line 9, after "23-5-609(4)(L)", the phrase ", as that section read on September 30, 1989".

(2) The reference copy of House Bill No. 251 of the 51st legislature is amended to change "license" to "permit" on page 2, lines 2 and 13.

(3) The reference copy of House Bill No. 448 of the 51st legislature is amended to delete the amendments made to 23-5-104(1). Subsection (1) of 23-5-104 and the first sentence of 23-5-104(2) are deleted, as provided in [section 22], and the amendments to the remainder of 23-5-104 by [section 22] and House Bill No. 448 take effect."

Renumber: subsequent section

51st Legislature

SB 0431/04

SB 0431/04

1 SENATE BILL NO. 431
2 INTRODUCED BY GAGE, HARPER, B. BROWN, MAZUREK,
3 ADDY, STRIZICH, MERCER, CRIPPEN, HANNAH,
4 HARP, VAN VALKENBURG
5 BY REQUEST OF THE DEPARTMENT OF JUSTICE
6
7 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
8 PUBLIC GAMBLING LAWS OF MONTANA; PROVIDING FOR LICENSURE AND
9 REGULATION OF GAMBLING ACTIVITIES BY THE DEPARTMENT OF
10 JUSTICE; ~~PROVIDING FOR STATUTORY APPROPRIATION;~~ PROVIDING
11 FOR A GAMING ADVISORY COUNCIL; AMENDING SECTIONS 17-7-502,
12 23-5-101 THROUGH 23-5-104, 23-5-108, 23-5-123, 23-5-131,
13 23-5-135, 23-5-311 THROUGH 23-5-313, 23-5-321, 23-5-331,
14 23-5-412 THROUGH 23-5-414, 23-5-431, 23-5-503, 23-5-509,
15 23-5-602, 23-5-603, 23-5-607, 23-5-608, 23-5-610 THROUGH
16 23-5-613, 23-5-616, 23-5-625, 23-5-631, 23-5-1101, AND
17 23-5-1105, MCA; AND REPEALING SECTIONS 23-5-105 THROUGH
18 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124 THROUGH
19 23-5-127, 23-5-132 THROUGH 23-5-134, 23-5-141 THROUGH
20 23-5-144, 23-5-201 THROUGH 23-5-211, 23-5-301 THROUGH
21 23-5-303, 23-5-314 THROUGH 23-5-316, 23-5-322, 23-5-323,
22 23-5-332, 23-5-401 THROUGH 23-5-403, 23-5-411, 23-5-415
23 THROUGH 23-5-418, 23-5-421 THROUGH 23-5-423, 23-5-504
24 THROUGH 23-5-508, 23-5-510, 23-5-511, 23-5-601, 23-5-605,
25 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23-5-618, 23-5-626,

1 23-5-627, 23-5-635, 23-5-636, 23-5-1103, AND 23-5-1104,
2 MCA."

4 STATEMENT OF INTENT

5 This bill requires a statement of intent because
6 [section 7] authorizes the department of justice to adopt
7 administrative rules to implement [this act]. [This act] is
8 intended to provide uniform statewide regulation of gambling
9 in Montana under the supervision of the attorney general.

10 It is the intent of the legislature that the department
11 of justice adopt necessary rules to implement uniform
12 statewide regulation of gambling in Montana consistent with
13 the purposes and policies set forth in [section 1] of this
14 bill.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 NEW SECTION. Section 1. Public policy of state
18 concerning gambling. (1) The legislature finds that for the
19 purpose of ensuring the proper gambling environment in this
20 state it is necessary and desirable to adopt a public policy
21 regarding public gambling activities in Montana. The
22 legislature therefore declares it is necessary to:

23 (a) create and maintain a uniform regulatory climate
24 that assures players, owners, tourists, citizens, and others
25 that the gambling industry in this state is fair and is not

Insert "D" on page 61, following line 9

Ex. #1
4-6-8

(9) The department must give each council member notice and a copy of each proposed change in administrative rules relating to gambling. The notice and copy must be given at the time a notice of proposed rules changes is filed with the secretary of state. The council must review the proposal, may comment on it, and may attend any hearing on the proposal. The department must consider any comment by any council member or by the council as a whole prior to adopting the proposed change.

NEW SECTION. Section 65. Construction. In view of Article III, section 9, of the Montana constitution, [this act] must be strictly construed by the department and the courts to allow only those types of gambling and gambling activity that are specifically and clearly allowed by [this act].

Renumber: subsequent sections

LXHI
DATE 4-6-89
HB SB 431

Prepared by Larry Akey, April 3

1. Page 12, line 24 through page 14, line 20.

Strike: section 8 in its entirety

Insert: "NEW SECTION. Section 8. Administrative and civil remedies. (1) If a person has engaged in or is engaging in an act or practice constituting a violation of a provision of parts 1 through 6 of this chapter or a rule or order of the department, the department may:

(a) issue a temporary order ⁶⁰ ~~for a period not to exceed 30 days~~ ⁴⁵ to cease and desist from the act or practice constituting a violation; ^{pursuant to MMAA}

(b) following reasonable notice and opportunity for hearing ^{within 20 days of} ~~the issuance of a temporary cease and desist order:~~

(i) issue a permanent order to cease and desist from the act or practice constituting a violation, which shall remain in effect pending an appeal or judicial review;

(ii) place a licensee ^{OR license} on probation; ^{A licensee OR}

(iii) suspend for a period not to exceed 120 days the ~~permit for the gambling device or gambling enterprise giving rise to the act or practice constituting a violation;~~

(iv) revoke the permit ~~for the gambling device or gambling enterprise giving rise to the act or practice constituting a violation;~~

(v) impose a civil penalty not to exceed \$10,000 for each violation of a provision of parts 1 through 6 of this chapter or a rule of the department, whether or not the person is licensed by the department;

(vi) impose a combination of the penalties provided in subsections (1) (b) (i) through (1) (b) (v);

(c) bring, ~~without issuance of a temporary cease and desist order and without administrative hearing,~~ an action in district court to enjoin the act or practice. The department may not be required to post a bond. On proper showing, the court may:

(i) grant a temporary or permanent injunction, a restraining order, or other appropriate writ;

(ii) suspend or revoke a license ^{OR permit} and,

(iii) appoint a receiver or conservator for the defendant or the defendant's assets. ^{by a district court OR by a district court.}

(2) (a) A civil penalty imposed ^{by a district court OR} under subsection (1) (b) (v) must be collected by the department and deposited in the state's general fund as provided in 23-5-123.

(b) If a person fails to pay a penalty imposed under subsection (1) (b) (v), the penalty is a lien on the person's licensed premises and gambling devices in the state and may be recovered by the department in a civil action. ^{by a district court OR}

~~(c) If a person fails to pay a penalty imposed under subsection (1) (b) (v), he may not be licensed to operate a gambling device or gambling enterprise in the state under parts 1 through 6 of this chapter.~~

(3) Imposition of a penalty under subsection (1) (b) is an order from which an appeal may be taken pursuant to [section 12]."

Coordination of SB431 With Other Bills

(1) Section 48 of SB431 deletes 23-5-612(2), while section 1 of HB576 (scheduled for House 2nd reading on Senate amendments on March 31) amends that subsection. Subsection (2) is the grandfather clause for used KENO machines. Section 48 of SB431 deletes that grandfather clause, while HB576 extends it for another 1 1/2 years (to Dec. 31, 1990) and amends it.

SB431 needs a coordination instruction that, if both bills pass, either voids the deletion of 23-5-612(2) by SB431 or voids the amendment of that subsection by HB576.

(2) Section 1 of SB251, which the Governor signed on March 14, adds language to 23-5-413. That section is also amended by SB431. The only conflict is that the language added by SB251 twice refers to a "license", whereas SB431 has changed the word "license" to "permit" wherever the word is used in 23-5-413.

A coordination instruction is needed in SB431 stating that if both bills pass, "license" is changed to "permit" wherever that word is used in the language added to 23-5-413 by SB251.

(3) SB431 deletes subsections (1) and (2) of 23-5-104. It makes no substantive changes in the rest of the section (subsections (3) through (5)). Subsection (1) of 23-5-104 makes it a crime to possess slot machines, except antiques. Subsection (2) of 23-5-104 allows and defines antique slot machines. After deleting 23-5-104(1) and (2), SB431 inserts, as a new subsection (1), a new definition of antique slot machine.

The effect of the amendments to 23-5-104 by SB431 is to redefine "antique slot machine" and get rid of the criminal offense and penalty. The criminal offense and penalty are probably deleted because SB431 generally changes the criminal offenses and penalties part of the gambling laws, so that the offense for owning a non-antique slot machine is, under SB431, elsewhere than in 23-5-104.

HB448, which the Governor signed on March 28, conflicts with the SB431 amendments to 23-5-104. HB448, in 23-5-104(1), inserts a reference to 23-5-105. Section 23-5-105, which states the penalty for owning slots, is repealed by SB431. HB448 also amends 23-5-104(2), by redefining "antique slot machine".

A coordination instruction is needed to take care of these conflicts. It should probably state that if both bills pass the amendment to 23-5-104(1) by HB448 is void. That appears to be only a cleanup amendment anyway. The other thing the coordination instruction must address is the fact that each bill redefines "antique slot machine". The coordination instruction must state which bill gives way to the other bill if both bills pass.

(4) SB431 repeals 23-5-606 and 23-5-609. Those sections are amended by HB573, which the Governor signed on March 27. HB573 amended those two code sections to allow machine manufacturer bill acceptors on video draw poker and video KENO machines. If the committee wants this to be the law SB431 should be amended to say so. See Larry Akey's suggested amendment on this.

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON SENATE BILL 431

Call to Order: By Chairman Gage, on April 18, 1989 at 2:00 p.m.

ROLL CALL

Members Present: Senators: Bob Brown, Joe Mazurek, Delwyn Gage. Representatives: Dave Brown, Bill Strizich, Budd Gould.

Others Present: Attorney General Marc Racicot
John McMasters, Legislative Council

Members Excused: None

Members Absent: None

Staff Present: Ann Glenn, Secretary

SENATE BILL 431

Chairman Gage stated he would like to keep the meeting as informal as possible to save time unless it became necessary because of the nature of the bill - it becomes less than informal we will go to very formal. He asked for comments from Committee members regarding their positions as regards to the House amendments.

Representative Brown The House spent 13 to 14 hours in sub-committee, which he chaired. His ground rules at the outset were: (1) this bill would not be an expansion of gambling and (2) that if we were going to create uniformity we should have it as uniform as possible to pass the board with those things that directly relate to gambling, and (3) the Attorney General was gracious enough to sit through that entire process as were most of the folks in attendance here. What we tried to do was take a look across the state to create uniformity and at the base that we started with, we didn't want to restrict the average activity that was going on, and we specifically excluded a number of games. The bottom line was not to reduce and have an impact on the industry that is out there now. Overall, I think we restricted on the kind of gambling that is going on in Montana now. We also operated under the Attorney General's guidelines - if it's not in this bill it isn't legal. Under all the constraints, I hope we can deal with this Committee so we can find a common ground that is fair to everyone and

still provide what I think this legislation overall wants to do and that is control gambling in Montana. Another two and one-half to three hours were spent in full committee. The bill came out of the House with good solid support. Regarding the packet of amendments which say "from the Attorney General's office", some of those are the Attorney General's and some of those were requested by others. As we go through them I want clearly noted those amendments that were requested by the Attorney General and which were not.

Senator Mazurek In particular I asked where are the areas of expansion in this from current practice that is going on right now, and the areas that were identified were "Jacks or better", the \$800 dollar limit on poker machines, the hours and the ability of local governments to go beyond the 8:00 a.m. to 2:00 a.m., the number of machines, use of the term "symbols", cashing of checks, existing small business (non-liquor) machines, grandfather clause, existing machines, a permanent license, the effective date, and other technical concerns.

Representative Gould Is not personally "hung up" on anything in the bill except a couple of points which were brought up by Joe. I think house should be a local option. For example, at our hearings the Missoula city fathers were very much in favor of having local option because presently they are receiving about \$80,000 a year in the 8:00 a.m. to 2:00 a.m. time. Missoula is a strong shift town between the mills, hospitals, etc. There are 26 keno machines that the city and county are receiving revenue off of and I think it is totally unfair to have machines one place and I build a convenience store across the street from someone who has two machines - you have the advantage over me. I should be able to put in a couple of keno machines. The rest of the amendments are certainly up for discussion.

Senator Brown Echoed some of the comments made by Senator Mazurek. He indicated that Rep. Brown said he laid down the ground rules for the sub-committee in the House of Representative Judiciary Committee and that they didn't want SB 431 to be a vehicle for expansion but felt it was useful to move towards uniformity in our state's gambling laws. That was the philosophy that predominated the Senate Judiciary Committee as well and it certainly did on the Senate floor. We may have a rather major and significant disagreement in the area of "Jacks or better". It may be pretty fundamental because it is not utilized in the law. There isn't any reference to "Jacks or better" in the existing law. So in my estimation it is expansion right there but furthermore since it is alleged that it is going on right now we might as well go ahead and legalize it. That is a poor basis for any kind of public policy to say

that people are doing it then we ought to make it legal. Certainly, we would not be able to make anything legal if we followed that philosophy in all cases.

I think "Jacks or better" is an expansion since it is not in the existing law. The facts are not upheld that it is widely played now according to the evidence in a document, dated April 18, 1989, from Rick Day, Bureau Chief of the Investigations Bureau, Department of Revenue. It is especially significant in light of increasing the pot money from \$800 to \$1000 - the fast moving house games, such as "Jacks or better", then I think if you increase the pot limit you expand even more significantly gambling if you let this game become part of our law. The local option questions such as the number of machines and closing hours, etc., I have personal viewpoints on but they are not as strongly held as these first two - "Jacks or better" and amount of pot money. I also think we should look carefully at the transferability of businesses. I think we may be able to come to a fairly easy agreement in the area of the symbols. I have some concerns also in the area of the check cashing.

Representative Strizich From the very start my intentions were to try and find uniformity on the issues and I think we have to hear current practice against where we want to be in the future. Current practice in my view has been one of expansion because we don't have state-wide regulation and because we don't have uniformity. I think in our effort to describe current practice we uncovered the diversity in the application of law across the state and that is the problem in and of itself. "Jacks or better" is a good example - which came out of a discussion of what current live games are being played that seems to be a popular game in several counties - whether or not it's an expansion is a subject for some discussion. I think we need to avoid expansion of gambling in Montana - by default hat we have been doing for many years - and I think the legislature has been terribly at fault for not doing something uniform state-wide for many years. Any perceived expansions in this bill I believe are counter-balanced by what I feel are pretty good teeth - administratively and criminally which were not there before. I hope we can avoid, to quote the Attorney General, "throwing the baby out with the bath water". We have a lot more here at stake.

House Floor Amendments

The Committee addressed each House amendment with Representative Brown commenting on the reasons for changes. Attached to these minutes (Exhibit A) are the amendments which Committee members have approved thus far in this

meeting.

License and Permit Fees and Effective Dates

Attached to these minutes as (Exhibit B) is a report from John McMaster of the Legislative Council regarding the proposed effective date for the bill.

Representative Gould moved that both Sections referred to as 63, 64, 65, 66, 67, 68, 70, 71, Section 7, (2) and the effective date section be effective on typing and approval, and the Appropriation Section be effective July 1, 1989. All other sections to be effective October 1, 1989. Motion passed.

Section 48 (3)

John Wallin with Video Games gave testimony that machines in the state have only been conditionally approved. They have not had the ability to check to the fullest extent possible the random of the game. While some of the machines will certainly pass the final test, he anticipates that some of them will certainly fail and there will be some people who will not be able to bring their machines into compliance.

Representative Brown noted that the bill states All video gambling machines approved by the department of commerce prior to the effective date of this act must be considered approved under this part. He said either they are approved or they are not approved. If they are conditionally approved then they are not approved.

Senator Mazurek stated the position of Senate Committee members that they give on cashing checks, local hours, local options on machines and leave those as is - so by local ordinance you could extend hours but by local ordinance you could not reduce machines, give on \$100 to \$300 and in exchange what we would like to have is go from \$800 to \$1000 on poker and "Jacks or better", off with language included that card games must be played amongst the dealer and the players and not be played against the house, and we would want to "grandfather" existing non-gaming, non-alcohol premises only - no sale, no transfer, no devise. We have card games in this state and apparently there is disagreement what that contemplates. Just because some county attorneys may be willing to look the other way, I don't think we should make what is currently illegal, legal, because it's played in some areas around the state.

Attorney General Marc Racicot We do not want being involved being a lobby for various games - that shouldn't be our

function. We have 10 agents for the state of Montana to investigate serious problems. From our perspective we would like to know what you want us to do and we'll do it.

Senator Mazurek I am concerned about having live action games against the house. Secondly, I feel very strongly about allowing locals a number of machines so we fell we are giving on that. The Senate would like to get machines out of non-gaming, non-licensed establishments. What we are trying to do is concede, compromise, if you will - we will go along with those who already have them but gradually phase them out so that you limit games to licensed gaming or alcohol beverage establishments. From that perspective we think we are giving away on two points which the Senate has already voted directly the opposite on.

Senator Brown The thrust of this bill is control and with the number of people that the Attorney General has to help him enforce the laws he can maintain control. We will "grandfather" the people who operated in establishments that weren't taverns but would eventually phase them out under the language the Attorney General has proposed. It seems to me contrary to the thrust and purpose of the whole bill to then say we are going to allow two of these things in any place that serves food.

Representative Gould In Missoula County we have 26 keno machines located in truck stops and convenient stores. The City attorney and sheriff's office have no problems and they feel it would be a loss of revenue if presently they could only have 15 machines.

Representative Strizich We tried to balance restriction of gambling and the expansion of gambling. What we were trying to do is find existing practice, regulating it and controlling it. Currently, there is no control over those non-alcohol places - there is control with the amendments we have made. I am also assuming that now that we have good law here, that has some criminal and some administrative sanctions for people who operate these machines that the problem folks have with having these things placed out in the public with the possibility of having kids play them is going to be severely limited. More so, under this law, we are controlling gambling, we are restricting gambling.

Senator Brown If you have these machines in drug stores and convenient marts it would be very difficult to police.

Senator Mazurek It is also consistent with what we have done with bingo establishments - under this bill no one can open a bingo establishment who have machines. All we are trying to do is be consistent in treating existing

establishments.

Representative Gould We have seen the expansion of gambling because we have had SB 431 in place. The most important thing in all our conversations is have a bill in place - I don't want to lose the bill but also feel that places such as ours where we are not having any problem - we are restricted. I just hate to see us get totally "hung up" on one really small issue and any issue in this bill can be changed in two years.

Senator Mazurek The difficulty I have with that is the very purpose of this bill is to have state-wide standards. What you are saying is that Missoula will decide where they want it and everyone else can decide the way they want it.

Representative Strizich We put a lot of time in this bill and at no time did I hear testimony before any committee, in letter-writing or phone calls that there is a problem out there with the truck stops having these machines. I didn't hear it from county attorneys, city attorneys - I heard concerns about exposed to children, concerns about insidious expansion - I don't hear a problem with the bill.

Senator Mazurek Having machines in truck stops, convenience stores, grocery stores - that is what we are talking about here and I would suggest that a majority vote in the Senate to delete those machines ought to be evidence of some concern.

Senator Gage You are letting the local folks vote that determination but the burden of control of that whole thing is thrown back on the Attorney General's office with no control whatsoever on the workload.

Senator Brown The Attorney General has indicated to us this morning that we have a control problem.

Senator Gage To summarize what our concerns are - it is our feeling and the feeling of the Senate that the full thrust of the bill is to put the control on the enforcement for uniformity under state control. It is our feeling that we are straying towards local control in pretty major ways - when we start going towards local control of numbers of machines and locations of machines. We feel like we are moving opposite to what we have done in the past as far as trying to limit where those machines are as far as keno machines - as far as keeping them in licensed and beverage establishments. We feel like we are putting more burden on the A.G. for enforcement because of the expansion of the numbers of places these machines will be. I have a big concern about the fact that we may potentially be

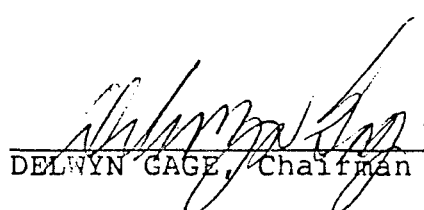
April 18, 1989

Page 7 of 7

disallowing machines in those places that presently have them if we "grandfather" those folks in. I would not like to see us take the "grandfather" out. The Senate and the Conferees don't feel we would like to expand the machines into any more non-beverage places than they presently are.

ADJOURNMENT

Adjournment At: 10:00 a.m.



DELYN GAGE, Chairman

DG/sh

SENMIN.431

FREE CONFERENCE

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 4-18-89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BOB BROWN	X		
SENATOR JOE MAZUREK	X		
SENTOR DELWYN GAGE	X		
REP. DAVE BROWN	X		
REP. BILL STRIZICH	X		
REP. BUDD GOULD	X		

Each day attach to minutes.

Amendments to Senate Bill No. 431
Reference (salmon-colored) Copy

Requested by Joint Free Conference Committee

Prepared by John MacMaster
April 19, 1989

1. Title, line 11.
Following: "FOR"
Insert: "AN APPROPRIATION AND A"
2. Title, line 18.
Strike: "AND"
3. Title, line 2 on page 2.
Following: "MCA"
Insert: "; AND PROVIDING EFFECTIVE DATES"
4. Page 4, line 1.
Following: "~~granted.~~"
Insert: "A holder does not acquire a vested right in the license or permit issued or other department approval granted."
5. Page 5, lines 16, 21, and 25.
Page 6, lines 4 and 9.
Strike: "OR SYMBOLS"
6. Page 5, line 22.
Strike: "OR SYMBOL"
7. Page 12, line 9.
Following: "manufacture"
Insert: ", lease,"
8. Page 15, line 12.
Following: "THE"
Insert: "gambling activity,"
Following: "ACT"
Insert: ", """
9. Page 17, line 7.
Following: "deposited"
Insert: "one-half"
10. Page 17, line 14.
Following: "FUND"
Insert: "and one-half in the general fund of the county in which the violation occurred"
11. Page 18, line 14 through line 14 of page 19.
Strike: subsections (3) and (4) in their entirety

12. Page 24, lines 17 through 19.
Strike: subsection (3) in its entirety

13. Page 33, line 20.

Following: "tables."

Insert: "If one or more live card game tables were legally operated on a premises on January 15, 1989, and the premises were not on that date licensed under 16-4-401(2) but were licensed on that date to sell food, cigarettes, or any other consumable product, an operator's license and an annual permit for the placement of live card game tables may be granted to the person who legally operated the premises on January 15, 1989."

14. Page 49, line 21.

Following: "operator."

Insert: "The department shall adopt rules allowing a video gambling machine that needs repair to be temporarily replaced while it is being repaired with a video gambling machine that is approved under the permit provisions of this part. A fee may not be charged for the replacement machine."

15. Page 54, line 3.

Following: "located."

Insert: "The local government portion of the fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit in the local government treasury."

16. Page 61, line 3.

Following: "part,"

Insert: "a person who purposely or knowingly violates or procures, aids, or abets"

17. Page 61, line 5.

Following: "department"

Insert: "or an ordinance, resolution, or rule adopted under this part"

Following: "is"

Insert: "guilty of"

18. Page 63, lines 24 and 25.

Strike: "qualified" on line 24 through "(4) and" on line 25

19. Page 64, lines 3 and 4.

Strike: subsection (2) in its entirety

Insert: "(2) the proceeds from the pool, minus administrative costs and prizes paid, are contributed to a charitable or nonprofit corporation, association, or cause."

Renumber: subsequent sections

20. Page 67, line 11.

Following: "23-5-610;"

Insert: "23-5-612;"

Exhibit A
4-18-89
SB 431

21. Page 72, line 4.

Following: line 3

Insert: "NEW SECTION. Section 69. Proration of certain fees. A fee imposed under 23-5-321, 23-5-421, 23-5-612, 23-5-625, or 23-5-631 between [the effective date of this section] and October 1, 1989, must be prorated to cover only the period between the date the permit or license takes effect and October 1, 1989.

NEW SECTION. Section 70. Appropriation. The following appropriation is made from a state special revenue account to the department of justice for the purpose of implementing [this act] and administering chapter 5 of Title 23:

Fiscal year beginning July 1, 1989	\$527,081
Fiscal year beginning July 1, 1990	\$449,081"

Renumber: subsequent sections

22. Page 74.

Following: line 2

Insert: "NEW SECTION. Section 75. Effective dates. (1) [Subsection (2) of section 7 and sections 63 through 67, 69, 72, 73, and this section] are effective on passage and approval.
(2) [Section 70] is effective on July 1, 1989.
(3) The remaining sections are effective on October 1, 1989."

April 19, 1989

TO: SB 431 Joint Free Conference Committee members
FROM: John MacMaster

I have studied the various license and permit fee sections of the bill and the subject of effective dates, particularly the idea of making most of the bill, including the licensing and regulatory functions, effective on July 1, 1989, and the problem of double licensing (on July 1 under current law and again on Oct. 1 after the bill becomes effective) if the bill becomes effective on October 1, 1989.

It is my opinion that there is no way the Attorney General and Department of Justice will be able to consider, propose, and adopt by July 1, 1989, rules implementing the bill. A July 1, 1989, effective date would leave approximately two months to consider, propose, and adopt rules before the bill becomes effective on this July 1. That is simply not enough time for a major bill such as this, containing the large number of areas in which rules will have to be adopted. I say this as one who has for many years worked with gambling laws and has been the staff attorney for the Administrative Code Committee for 3 years. I can guarantee you that if you put a July 1 effective date on the bill you will create big problems, because when July 1 rolls around and the bill becomes effective there won't be any rules, or there will be totally inadequate rules.

With respect to a possible double payment of fees if October 1 is the effective date, section 28 of the bill imposes a new fee so is not a problem. The fee does not exist now and won't until section 28 takes effect. The other fee sections that must be considered are in the code sections cited in the suggested new section set forth below. These can be taken care of (if October 1 remains the effective date for most of the bill) by inserting in the bill a new section reading:

NEW SECTION. Section 68. A fee imposed under 23-5-321 and 23-5-322, 23-5-421 and 23-5-422, 23-5-612, 23-5-631, or 23-5-625 between [the effective date of this section] and October 1, 1989, must be prorated to cover only the period between the date the permit or license takes effect and October 1, 1989.

The sections in the new section suggested above are either amended in the bill or repealed by the bill and replaced with a fee section covering the same activity as the repealed section.

The new section suggested above should be made effective on passage and approval.

Atty General Amendments

4-18-89

SB 431

Amendments to SB431
from Attorney General's Office
4-17-89

A.G. Amendments 1/

4-18-89

SB 431

Page 5, line 16.
Strike: "OR SYMBOLS"

Page 5, line 21.
Strike: "OR SYMBOLS"

Page 5, line 22.
Strike: "OR SYMBOL"

Page 5, line 25.
Strike: "OR SYMBOLS"

Page 6, line 4.
Strike: "OR SYMBOLS"

Page 6, line 9.
Strike: "OR SYMBOLS"

A.G. Amendments

2/7

4-18-89

SB 431

Page 31, lines 24 and 25.

Strike: "(INCLUDING JACKS OR BETTER)"

4-18-89

Page 51, line 2 through page 52, line 3.

Strike: subsections (B) through (D) in their entirety

Insert: "(B) A person who on January 15, 1989, legally operated one or more video bingo or keno gambling machines in an establishment not licensed under 16-4-401(2) and the principal purpose of which was not gaming, and who has been granted an operator's license under [section 11], may be granted a permit for the placement of the same number of machines in his premises as he operated on January 15, 1989; the person may not transfer the permit to other premises or to another person."

A.G. Amendments

4-18-89

4/7

SB 431

Page 59, line 13.

Strike: "\$800"

Insert: "\$100"

A.G. Amendments 5/7

4-18-89

SB 431

Page 71, line 12.

Strike: "may"

Insert: "shall"

Page 71, line 13.

Following: "in a manner consistent with this act"

Insert: "upon the date of effect of this section"

4-18-89

SB 431

Page 74, line 3.

Following: line 2

Insert: "NEW SECTION. Section 73. Appropriation. The following appropriation is made to the department of justice for the purpose of implementing [this act]:

	FY 1990	FY 1991
Expenditures:		
Personal Services	\$ 276,792	\$ 276,292
Operating Expenses	109,289	109,289
Equipment	141,000	63,000
TOTAL	\$ 527,081	\$ 449,081
Funding:		
Gambling License Fee Account	\$ 527,081	\$ 449,081

Page 74, following last line.

Insert:

NEW SECTION. Section 74. EFFECTIVE DATE.

(1) Sections 66, 67, 73 and this section are effective
July 1, 1989.

(2) The remaining sections are effective October 1, 1989.

Minutes

MONTANA SENATE

51ST LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON SENATE BILL 431

Call to Order: by Senator Del Gage, Chairman, on Wednesday, April 19, 1989, at 7:14 p.m. in room 312-A of the state Capitol.

ROLL CALL

Members Present: All members were present.

Senate Members: Senator Del Gage, Chairman, Senator Bob Brown and Senator Joe Mazurek.

House of Representative Members: Representative Dave Brown, Chairman, Representative Budd Gould, and Representative Bill Strizich.

Members Excused: There were no members excused.

Members Absent: There were no members absent.

Staff Present: John McMaster, Legislative Council Attorney, and Mary Florence Erving, Secretary.

Announcements/Discussion: There were no announcements of discussion.

FREE CONFERENCE COMMITTEE ON SENATE BILL 431

Senator Gage asked if the committee would like to begin where the committee left off. No. Representative Dave Brown asked Representative Budd Gould if he wanted to discuss the other potential option. Yes. Representative Gould stated he would like to discuss the issue of having machines in establishments that have beer and wine licenses for off premises consumption. The language eliminates any concern mentioned about school hallways, libraries, and etc.

Senator Mazurek stated the subject has been talked about before informally. During the interim today, Mazurek stated he reviewed

the gambling commission report, the gaming advisory council's report, completed during the last interim. Senator Mazurek restated why the committee is where they are, and why he is where he is: It is the recommendation of the commission that commercial gaming, with the exception of live keno and live bingo, be restricted to establishments with licenses to sell alcoholic beverages for consumption on the premises. The recommendation is based, in part, upon testimony and upon a public opinion survey. Seventy-seven percent of the people responding thought video poker should be limited to the bars. Sixty-three percent of the people surveyed thought regular keno and bingo should be restricted to bars.

Senator Mazurek stated it seems like the committee is held up on a small issue, but, it is a fundamental issue, as to where we gamble. This is the reason why the grandfather clause is being offered. Senator Mazurek reinforced the reason why the committee had not discussed the issue in the morning: It was a recommendation. Recommendations, in these areas, are generally towards liberalization.

Representative Dave Brown said he guessed the negative recommendation issue leaves no leeway. Senator Mazurek stated the problem is: All premises, concerning the sale of beer and wine, means every grocery store, truck stop, appliance mart, gas station, and etc.

Representative Gould stated any violation a person might have will make them lose the machines. No. Senator Mazurek stated, under the bill, there will be four violation phases. The person will not lose the license until the fourth offense. Representative Gould stated he will go for changing it to a first offense.

Senator Mazurek asked if there are any other issues of interest that should be discussed.

Representative Strizich stated each side has given away everything, except the bottom line. The problems is we both settled on the same one.

Representative Gould stated it seems like the House Committee have given up on most everything. Representative Gould stated he wanted a pound of flesh, but, he will listen to the committee's thoughts.

Senator Gage stated the Free Conference Committee is at the conclusive point concerning some of the recommendations. The committee has strayed from some of the recommendations already. Senator Gage stated the recommendation was the commercial gaming, with the exception of live bingo and live keno, be restricted to

establishments licensed to sell alcoholic beverages on the premise. Senator Gage stated that he is not sure if this is the section Senator Mazurek is talking about. The recommendation was gaming hours will be limited from 8:00 a.m. to the following 2:00 a.m. of the following day. The time frame has strayed from the recommendation. Also, recommendations were heard concerning uniformed gaming laws and primary enforcement to rest in the state. Local governments should have options or ordinances, other than zoning. The committee has strayed from these recommendations.

Senator Gage stated one of his concerns is we are not going to be fair to everyone, regardless of how the committee handles the legislation. Senator Gage stated another big concern is we do not grandfather the folks in who are already in a two machine situation. The area of concern includes truck stops and other places. As I understand the legislation, the House Committee didn't want to grandfather these folks. Senator Gage stated he has a concern the committee does grandfather. Nothing under the House's scenario really makes any difference. Whether you grandfather or not, they can come back in and get a permit anyway. So, the grandfathering, under the House's scenario, as well as passing it from family member to family member, is really immaterial.

Representative Dave Brown stated, due to the language in the bill those people are grandfathered in anyway. Senator Gage said to the House Committee it was his understanding the House Committee did not want to grandfather.

Senator Bob Brown asked Representative Gould if he meant if somebody has more than two machines, no more than two machines would be grandfathered. Senator Mazurek stated he discussed the issue with Representative Strizich concerning two machines in a licensed off premises establishment and no grandfather.

Senator Gage said he did not like that concept either. Those folks could come back in and get a permit, whether they are grandfathered or not. It is up to two machines. The language concerns people who do not have off premises licenses.

Representative Dave Brown said he would go for eliminating two machines, keeping the grandfather clause in, putting back the Jacks or Better, and establishing the over \$800 amount. Senator Mazurek stated, in his opinion, Jacks or Better, as the game has been described, is not currently legal. Representative Brown's proposal would be an "extension".

Representative Dave Brown stated he wanted to have the record show, according to his perspective, he is willing to give up Jacks or

Better. It is entirely possible this bill will die in the House without the Jacks or Better. Even if the House Committee gets Jacks or Better out of the Free Conference Committee, based on my conversations around the floor and during the interim, since the committee met last, Rep. Brown doesn't think the language will be accepted.

Representative Dave Brown stated he wants to take out Jacks or better out because he believes it severely restricts the definition of poker. By having it in there, it severely limits that definition of poker. Especially, given the fact, no other major gambling legislation defines poker in statute or rules. Jacks or Better is considered a game the "house" controls. Representative Dave Brown stated he wants to take Jacks or Better out, but for a different reason than the Senate wants. Representative Brown stated he wants it clear in the records, and he wants the Attorney General to take into account what goes on in other states when he looks at those definitions.

Representative Dave Brown stated he would go from the eight hundred dollars to the one hundred dollars on the poker machines, with the understanding of committee members are trying to do. In his judgement, Jacks or Better is the only questionable item in the bill, in terms of the expansion of gambling. Representative Brown stated he does not know of any machines currently paying \$800. Maybe there are some, but Rep. Brown stated he didn't know about them.

Representative Brown stated he wants the record to clearly indicate there is a lot of interest concerning the \$800 payout. This will be evident when we come back with legislation next time to have the \$800 limit, in this area or any other area, to expand gambling. Representative Brown stated he wanted the record to clearly show we are trying to establish a base. We are trying to establish a uniform system of control for gambling in Montana, so everyone does not have to be as afraid of "it", as they were in the past. We can then have a legitimate discussion about individual pieces of expansion. I think, in giving in to those two areas, we give too much, certainly more than the two keno machines.

Senator Mazurek stated, in reply to Representative Dave Brown comments concerning Jacks or Better, the issue, if it comes out of the bill, is not a dead issue. As Rep, Brown and I both know, the Jacks or Better issue will be litigated at some point, probably very soon. So, whether it is in the bill or not, the battle will be decided in the courts. The issue is well preserved, and I am sure it will be fought.

Senator Mazurek agreed that Rep. Brown raised a good point: The committee is trying to establish a base. Senator Mazurek stated, if he was to error, he would like to error on the side of control, and get "control" in place. Then if you want to put the machines outside of the already, fairly well controlled licensed establishments, then let's do it after we get the control in place. Let's take a look at it, let the controls start, and get into operation. The legislature has been fighting numbers every session since the state has had machines, and will fight numbers every session hereafter. Senator Mazurek stated he thinks controls should be in place, grandfather those already there, and start the controls with the machines in taverns. We'll fight these limit battles and game battles every session from now until eternity.

Representative Dave Brown stated he thinks the legislature is already severely limiting the gambling issue. If the legislature was starting from ground zero, Rep. Dave Brown stated he could accept the limiting issue a lot better and would probably agree. The fact is the legislation is limiting what is already an "available opportunity". The opportunity is being limited severely seven to one. I don't know if anyone is taking full advantage of the situation in the non gaming situation. There are establishments that have five, six or seven machines. We are putting a limit of two into the legislation. As I understand your argument and other arguments, we are grandfathering establishments that have it, and we are preventing anyone else from getting it. I guess I don't think, for a state worried about it's economic development, we can afford to affect small businesses in this fashion.

Representative Gould stated Missoula County has twenty-six machines at the present time. In a county, extending one hundred miles from Lolo to Condon, you are looking at twenty-six machines in thirteen locations. I don't think there is any effort to have fifty establishments with two machines. Representative Gould stated, in an effort to get more concessions from the legislation, he would agree with just about everything, including mandating positive action of the city, county gaming commission, or whatever the restrictions might be: perhaps city government or county commissioners. Representative Gould stated the House Committee expected to gain the locations that have beer and wine licenses. Representative Gould stated the House Committee also gave up the Gallatin amendment.

Senator Mazurek stated the Senate Committee gave up the Gallatin amendment. The Gallatin amendment would have caused local governments to limit the number of machines in a county. The Senate conceded that one away that the local governments can't do that. The Senate also gave up the state wide hours in favor of local

options. Senator Mazurek stated he went through the amendment list to look for areas of concessions. Senator Mazurek stated the following are his own calculation concerning the losses. The concessions may concern the committee losses, but they also take into account other's losses. My impressions is: The Senate gave away 1) cashing checks in the bars for cash; 2) increasing the limit from one hundred to three hundred; 3) the state wide hours, local options on hours; 4) the allocation machines; and 5) no limit on the number of machines. The House gave on 1) the poker machine limit from 800-100, and 2) the Jacks or Better.

Representative Gould asked if the Senate wanted the local limitation. Senator Mazurek stated there is no question: The Senate wants limitation. The Senate voted to allow local governments to restrict the number of machines to some levels, not to wipe them out completely. The figure was 5 and 7 or 5 and 5.

Representative Gould stated, according to what he was told, the figure was 5 and 7. Representative Gould stated he would vote to give this back, if the Senate wanted, and go with allowing ten machines, whatever machines the establishment wanted. Senator Mazurek asked if this proposal was in exchanged for the two machines. Representative Gould said yes, and you can maximize what ever works best for the Senate and keep the figure at ten.

Representative Gould stated he thinks the Senate Committee is trying to do is get the best revenue for the local government. Senator Mazurek stated the legislation proposed would make the industry nervous because gambling will become a local city council election issue. The topic is a current political issue in Bozeman. Representative Gould stated he remembers when Bozeman closed their bars at midnight.

Senator Gage asked if anyone would like to make a motion at this point.

Attorney General Racicot requested an opportunity to speak. The Attorney General stated we are eighty-nine days into this session, and he does not think anyone put as much time into the bill as the Justice Department or the Legislative Council. Racicot also stated he did not think any state department collected as much information, or tried to be as involved as the Justice department did concerning the legislation. Yet, Racicot stated he does not know what is precisely going on, besides the dynamics of the issue concerned. Racicot wanted to know if there is some symbolic plight involved in this process. Racicot stated he thinks it is a shame, for those who have been involved in this process, to allow anything to interfere. The issue of the two machines, being discussed, was never an issue until today. Racicot stated at one point in time, there was a compromise worked out in the House Judiciary Committee

so everybody would be grandfathered in because the committee was reacting to language put in by the Senate. The Senate language said nobody was going to be grandfathered in. They were all going to be in places that sold alcohol for consumption on the premises. Sometime between that time and today, this issue has become very significant. The Attorney General stated he does not know why because the committee is dealing with a generation of unborn machine owners at this point. The Attorney General stated, from his perspective and for most of the people's perspective in the room, he does not know the reason for the stalemate, although he understands the philosophy. We have previously dealt with much more difficult issues compared to what is being dealt with now, and we have been able to deal with every issue. If it is a symbolic struggle, AG Racicot stated he would like to know about it.

Representative Dave Brown stated this has been a big issue ever since the bill came to the House, but it was never discussed. Representative Brown stated the position is pretty well taken. A lot of people would like to have the full blown issue back to where it was, which was fifteen machines. Representative Brown stated he thought risks were taken by limiting the number to two. Many of us have talked about accepting the initiative hearing process, when two or three people came in involving local government. This item has always been an issue. It is one that we have not just talked about. The interim subcommittee thought they would deal with it when the time was right.

Attorney General Mark Racicot stated the situation it is not an issue with the Justice Department, and stated he didn't think it is a issue with the committee or the industry. Attorney General Racicot asked Representative Brown if he wanted to see the bill die. Representative Brown stated, since being asked, the starting point on the negotiation lists were wrong. The survey specifically says that twenty machines should be up to eight hundred dollars. The industry never had a chance to comment on the Senate Bill 431 when it first come out the night before with the hearing the next day.

Retraction is taking away when it has been already given. It is grandfathered for the person who has it now, but the person next door doesn't have.

Representative Dave Brown stated the industry did not have a chance to comment on the Senate bill when it first came out, the night before it was heard in the House. The Attorney General stated the constituents are not here claiming that is what they want.

Senator Mazurek stated he would like to offer amendments that were prepared by McMaster, so the amendments will be entered in the

record. Some, have already been adopted. All the amendments have previously been discussed. Number one strikes Jacks or Better. Number two is not being offered. It would have required "Games must be played between the dealer and other players and may not be played against the house." Amendments three and four are being offered. The amendment strikes the two machines of the nongame and non licensed, and it grandfathers all existing machines, but it does not allow transfers. Amendment five draws up machine limits from eight hundred to one hundred on poker. Senator Mazurek moved the amendments. If the amendments pass, Senator Mazurek stated he has the Free Conference Committee papers prepared to be signed. The papers include all the other amendments, which have been adopted.

Senator Mazurek stated the issues are far from over in the grand scheme of things. The Attorney General's points are well made. Senator Mazurek stated he thinks we should start here to take care of the gambling issues. We will be fighting these battles in the years to come.

Representative Dave Brown stated, as far as he is concerned, all the House Committee did was give.

Senator Mazurek stated, in terms of who gave and who didn't and in terms of the list, Representative Dave Brown's House Committee has given, but the Senate has given on machine mix, local limits, pot limits in games, and cash at the bar for checks, which is a significant benefit to the industry.

Senator Gage asked Representative Gould if the House Committee would like to caucus. Representative Gould stated he would hate to lose this the bill after all the work has gone in it.

Representative Dave Brown stated he would rather lose the bill, than to give in to folks who just plain don't think gambling is worth a d___.

Senator Mazurek stated he hoped Representative Dave Brown's comment was not directed at him. Senator Mazurek stated he is trying to keep things within reasonable limits; consistent to what has been recommended; and to what the majority of people in the state want.

Senator Gage stated he represents a particular area where the game, Jacks or Better, was ruled not to be poker, and ruled not a legal game. Therefore, we do not have the game in my area. Primarily, Gage stated he is being directed by opinions gathered by the interim committee, and the opinion of the interim committee was to keep within licensed premises.

Representative Brown stated he would like to adjourn for the

purpose a having a caucus. The Attorney General asked to make a statement. The Justice Department will not be inclined to become involved in a tortuous process again. The opportunity is here to take advantage of at this time. The meeting was adjourned at 7:43 P.M. and reconvened at 7:57 P.M.

Representative Brown stated, for the record, the advisory council report cuts both ways. In addition to recommending limiting machines to buyers, it suggests a 800 limit on machines, 800 limit on card games and twenty machines, mixed or matched, without limit on poker machines. Representative Dave Brown stated he honestly does not know what to do. There is a tremendous amount of time tied up in the bill, and that is a tough thing to throw away. On the other hand, if the Free Conference Committee adopts these minutes, I am not sure they will pass the House. It will be fought on the House floor. We could go back to Senator Jack Galt and see if we could get another committee appointed.

Amendments and Votes:

Senator Gage stated he would like a vote on the 4 amendment motion to see what the committee's position is. The motion to amend the bill includes the following: In addition to the amendments previously adopted, 1) strike Jacks or Better; 2) grandfather existing non-licensed non-gaming establishments; and 3) reduce 800 to 100 on poker machines.

Representative Dave Brown said how about \$200 on poker machines.

Senator Mazurek stated he did not know the significant of the \$200, but his suspicion is that people incur reprogramming costs. Representative Gould stated he would like to have it firmly stated in the records the House Committee hopes the industry's people will be working on programs or kits between now and the next session in order to make the machines do the same as a keno machine does now.

Amendment and Vote:

A roll call vote was taken. Senators Mazurek, Gage, Bob Brown, Representative Strizich voted YES. Representatives Gould and Dave Brown voted NO. The motion passed.

Representative Dave Brown moved to amend the legislation. In the place where Jacks or Better was taken out, he moved to insert: "The department shall adopt rules defining the card games listed in this section, and for each card games listed in this section, describing the variations of that game that are allowed, and shall allow the variations generally recognized in Montana.

Mr. McMaster stated he would like to point out, concerning, at least the first part of the motion, that Representative Dave Brown is going to have to describe the games anyway, or he is not going to be able to play in any card game.

Senator Bob Brown asked McMaster if he could put a period after the word "section".

Representative Dave Brown stated it will be the "whole way or no way".

McMaster said the reason it is important to list and define the card games is because the Senate put in language saying you cannot play a live card game unless it is authorized by the statutes and described in the rules. There are not any rules in statute, and there must be. The language is located on top of page thirty-two.

Senator Mazurek stated the rules and regulations are going to be for people who get the first shot at it by the industry. Senator Mazurek stated he is not willing to buy into the prospect of the defined card games, based on what is out there, whether it is legal or not, and based on whether one county attorney will enforce the law differently than another county attorney. Representative Brown stated the language is: "generally recognized."

A vote was taken, and the motion did not pass.

Senators Mazurek moved to amend. "The department shall adopt rules that are binding to card games listed in this section and for each card game listed in this section describing the variations of the games that are allowed."

Senator Mazurek stated he would be interested in the Attorney General's opinion. The Attorney General stated he assumed the Justice Department will be defining card games. The Attorney General said he did not want to get locked in a position where the department would be in court dealing with games not generally recognized. The department will be definitely busy. If we are going to be in court, we do not have a lot of attorneys, or county attorneys written into this bill. After consulting with the industry, the Attorney General stated it is his intention to adopt rules in compliance with the intent the committee and of the legislature. It is our understanding, to this point, they can have those normal standard games of five and seven card poker which, are played against the house, authorized. There are a number of different varieties.

Representative Dave Brown stated it is not the intent of the House, nor this side of the subcommittee, that Jacks or Better should be

excluded by any action of this Free Conference Committee. A vote on the House floor was clear evidence of the House's intention. The vote was more than two to one against.

Senator Mazurek stated he would refer to the Attorney General's judgment as to whether the first clause and the second clause would best serve the Justice Department's intention. Senator Mazurek asked the Attorney General if he wanted to adopt rules to define card games in this section, period, or do you want the additional language after each card game listed in this section describing the different variations allowed.

Representative Dave Brown stated he did not think Attorney General Racicot and Senator Mazurek should waste time voting on the amendment, because they will not get the amendment, anyway. Representative Dave Brown stated he wanted to leave the language as vague as possible.

Senator Mazurek stated, if the effect of McMaster's suggestion was correct, there will not be any card games in the state until after October 1, 1989. Representative Dave Brown stated he did not think that would be a problem.

McMaster said the AG, with or without the amendment is going to have to adopt rules defining card games that can take place, otherwise you can't play card games.

Senator Mazurek withdrew the amendment, stating he understood McMasters needed the language in the legislation.

Senator Mazurek stated he asked McMaster to prepare a list of every amendment issued on Senate Bill 431. Senator Mazurek stated he went through each of the amendments to make sure they were covered.

Senator Mazurek moved the amendments, and to make appropriate changes elsewhere in the bill.

Senator Bob Brown asked for the exact language that needed to be changed. On page 33, line 16: strike "under 16-4-401(2)"; on page 50, line 21: Strike under 16-4-4-1(2); and on page 51, line 13: Strike: "under 16-4-401 (2)" and add: to sell alcoholic beverages for consumption on the premises. Representative Brown asked if the language "to sell alcoholic beverages for consumption on the premises" is included in the others. Yes.

Senator Mazurek asked if it limits it to all beverage establishments. No.

The motion passed.

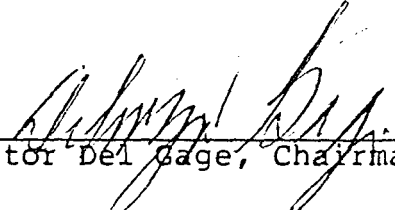
Recommendation and Vote:

Senator Mazurek moved to adopt the Free Conference Committee Report. The motion passed.

Senator Dave Brown asked to be recognized as a NO vote.

ADJOURNMENT

Adjournment: The meeting adjourned at 8:39 P.M.



Senator Del Gage, Chairman

DG/mfe

F:\LAS\BOBBROWN.1

Free Conference Committee Report
on SB 431
Report No. 1, April 21, 1989
page 1 of 4

Mr President and Mr. Speaker:

We, your Free Conference Committee on SB 431 met and considered:

The House amendments to SB 431 (third reading copy -- blue) in their entirety.

We recommend that SB 431 (reference copy -- salmon) be amended as follows:

1. Title, line 11.

Following: "~~FOR~~"

Insert: "AN APPROPRIATION AND A"

2. Title, line 18.

Strike: "AND"

3. Title, page 2, line 2.

Following: "MCA"

Insert: "; AND PROVIDING EFFECTIVE DATES"

4. Page 4, line 1.

Following: "~~granted~~."

Insert: "A holder does not acquire a vested right in the license or permit issued or other department approval granted."

5. Page 5, lines 16, 21, and 25.

Page 6, lines 4 and 9.

Strike: "OR SYMBOLS"

6. Page 5, line 22.

Strike: "OR SYMBOL"

7. Page 12, line 9.

Following: "manufacture"

Insert: ", lease,"

8. Page 15, line 12.

Following: "~~THE~~"

Insert: "gambling activity,"

Following: "~~ACT~~"

Insert: ",

FREE CONFERENCE COMMITTEE, SB 431
April 20, 1989
page 2 of 4

9. Page 17, line 7.

Following: "deposited"

Insert: "one-half"

10. Page 17, line 14.

Following: "~~FUND~~"

Insert: "and one-half in the general fund of the county in which the violation occurred"

11. Page 18, line 14 through page 19, line 14.

Strike: subsections (3) and (4) in their entirety

12. Page 24, lines 17 through 19.

Strike: subsection (3) in its entirety

13. Page 31, lines 24 and 25.

Strike: "(INCLUDING JACKS OR BETTER)"

14. Page 33, line 16.

Page 50, line 21.

Strike: "under 16-4-401 (2)"

15. Page 33, line 20.

Following: "tables."

Insert: "If one or more live card game tables were legally operated on a premises on January 15, 1989, and the premises were not on that date licensed under 16-4-401(2) but were licensed on that date to sell food, cigarettes, or any other consumable product, an operator's license and an annual permit for the placement of live card game tables may be granted to the person who legally operated the premises on January 15, 1989."

16. Page 49, line 21.

Following: "operator."

Insert: "The department shall adopt rules allowing a video gambling machine that needs repair to be temporarily replaced while it is being repaired with a video gambling machine that is approved under the permit provisions of this part. A fee may not be charged for the replacement machine."

17. Page 51, lines 2 through 10.

Strike: subsection (8) in its entirety

Renumber: subsequent subsections

18. Page 51, line 13.

Strike: "UNDER 16-4-401 (2)"

Insert: "to sell alcoholic beverages for consumption on the premises"

19. Page 51, lines 19 through 23.

Strike: "TO AN" on line 19 through "PERMITS" on line 23

20. Page 54, line 3.

Following: "located."

Insert: "The local government portion of the fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit in the local government treasury."

21. Page 59, line 13.

Strike: "\$800"

Insert: "\$100"

22. Page 61, line 3.

Following: "part."

Insert: "a person who purposely or knowingly violates or procures, aids, or abets"

23. Page 61, line 5.

Following: "department"

Insert: "or an ordinance, resolution, or rule adopted under this part"

Following: "is"

Insert: "guilty of"

24. Page 63, lines 24 and 25.

Strike: "qualified" on line 24 through "(4) and" on line 25

25. Page 64, lines 3 and 4.

Strike: subsection (2) in its entirety

Insert: "(2) the proceeds from the pool, minus administrative costs and prizes paid, are contributed to a charitable or nonprofit corporation, association, or cause."

Renumber: subsequent sections

26. Page 67, line 11.

Following: "23-5-610;"

Insert: "23-5-612;"

27. Page 72, line 4.

Following: line 3

Insert: "NEW SECTION. Section 69. Proration of certain fees. A fee imposed under 23-5-321, 23-5-421, 23-5-612, 23-5-625, or

23-5-631 between [the effective date of this section] and October 1, 1989, must be prorated to cover only the period between the date the permit or license takes effect and October 1, 1989.

NEW SECTION. Section 70. Appropriation. The following appropriation is made from a state special revenue account to the department of justice for the purpose of implementing [this act] and administering chapter 5 of Title 23:

Fiscal year beginning July 1, 1989

\$527,081

Fiscal year beginning July 1, 1990

\$449,081"

Renumber: subsequent sections

28. Page 74.

Following: line 2

Insert: "NEW SECTION. Section 75. Effective dates. (1) [Subsection (2) of section 7 and sections 63 through 67, 69, 72, 73, and this section] are effective on passage and approval.

(2) [Section 70] is effective on July 1, 1989.

(3) The remaining sections are effective on October 1, 1989."

And that this Conference Committee Report be adopted.

FOR THE SENATE

FOR THE HOUSE

Sen. Gage, Chairman

Rep. Dave Brown, Chairman

Sen. Bob Brown

Rep. Strizich

Sen. Mazurek

Rep. Gould

ROLL CALL

SENATE BILL 431 FREE CONFERENCE COMMITTEE
April 19, 1989

	Present	Absent	Excused
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Senate Committee Members:

Senator Del Gage	x		
Senator Bob Brown	x		
Senator Joe Mazurek	x		

House of Representatives Committee Members:

Representative Budd Gould	x		
Representative Dave Brown	x		
Representative Strizich	x		

ROLL CALL VOTE

SENATE BILL 431 FREE CONFERENCE COMMITTEE
April 19, 1989

To amend SB 431: In addition to the amendments previously adopted,
1) strike Jacks or Better; 2) grandfather existing non-licensed,
non-gaming establishments; and 3) reduce 800 to 100 on poker
machines.

yes no

Senate Committee Members:

Senator Del Gage	x	
Senator Bob Brown	x	
Senator Joe Mazurek	x	

House of Representatives Committee Members:

Representative Budd Gould		x
Representative Dave Brown		x
Representative Strizich	x	

THE MOTION PASSED

30. Page 43, line 9.

Following: "may"

Strike: "only"

Following: "play"

Insert: "only"

31. Page 43, lines 13 through 15.

Following: "machines." on line 13

Strike: remainder of line 13 through "licence." on line 15

32. Page 44, lines 17 through 19.

Following: "premises" on line 17

Strike: remainder of line 17 through "[11]" on line 19

33. Page 44, line 21.

Following: "PREMISES."

Insert: "A person who legally operated an establishment on January 1, 1989, for the principal purpose of gaming and has been granted an operator's license under [section 11] may be granted a permit for the placement of bingo and keno machines in his premises."

34. Page 45, line 10.

Following: "five"

Strike: "20"

Insert: "10 keno and bingo"

35. Page 45, line 17.

Following: line 16

Strike: "that are legal under this part"

Insert: "and 10 draw poker machines"

36. Page 45, lines 17 through 21.

Following: "part." on line 17

Strike: remainder of lines 17 through 21

37. Page 47, lines 12 and 13.

Following: "manufacturer-distributor" on line 12

Strike: remainder of line 12 through "equipment" on line 13

38. Page 48, line 20.

Following: "Each"

Strike: "A licence"

Insert: "An operator issued a permit under this part"

39. Page 49, line 24.

Following: "~~Each~~"

Strike: "A licensee"

Insert: "An operator issued a permit under this part"

40. Page 50, line 4.

Following: "~~Each~~"

Strike: "A licensee"

Insert: "An operator issued a permit under this part"

41. Page 50, line 17.

Strike: "incorporated"

42. Page 52, line 3.

Following: "play"

Strike: "-- penalty"

Following: "."

Strike: "(1)"

43. Page 52, lines 9 and 10.

Strike: subsection (2) in its entirety

44. Page 54, lines 1 and 2.

Following: "with" on line 1

Strike: remainder of line 1 through "manipulating" on line 2

45. Page 54, lines 2 and 3.

Following: "(1)" on line 2

Strike: remainder of line 2 through "felony to" on line 3

Insert: "A person commits the offense of tampering with a video
gambling machine if he purposely or knowingly"

46. Page 54, line 3.

Strike: first "manipulate"

Insert: "manipulates"

Strike: "attempt"

Insert: "attempts"

Strike: "conspire"

Insert: "conspires"

47. Page 54, line 20.

Strike: "\$10"

Insert: "\$1"

48. Page 58.

Following: line 5

Insert: "NEW SECTION. Section 64. Gaming advisory council -- allocation -- composition -- compensation -- annual report.

(1) There is a gaming advisory council.

(2) The gaming advisory council is allocated to the department for administrative purposes only as prescribed in 2-15-121.

(3) The gaming advisory council consists of nine members. One member must be from the senate, and one member must be from the house of representatives. The senate committee on committees and the speaker of the house of representatives shall appoint the legislative members of the council. The seven remaining members must be appointed by the department, with two representing the public at large, two representing local governments, and three representing the gaming industry.

(4) Each gaming advisory council member is appointed to a 2-year term of office. A member of the council may be removed for good cause by the appointing body provided for in subsection (3).

(5) The gaming advisory council shall appoint a chairman from its members.

(6) Legislative members of the gaming advisory council are entitled to compensation and expenses, as provided in 2-262, while the council is meeting. The remaining members are entitled to travel, meals, and lodging expenses as provided for in 2-18-501 through 2-18-503. Expenses of the council must be paid from licensing fees received by the department.

(7) The gaming advisory council shall, within its authorized budget, hold meetings and incur expenses as it considers necessary to study all aspects of gambling in the state.

(8) (a) The gaming advisory council shall submit an annual report to the department, at a time designated by the department, with recommendations for amendments to the gambling statutes, the need for additional or modified department rules, the clarification of existing rules, and other recommendations on the operation of the department or any other gambling-related matter.

(b) The annual report required under subsection (a) must be affixed to the annual department report on gambling in the state.

(c) The council may submit interim reports to the department as the council considers necessary.

(d) The council shall meet with the department upon request of the department.

(e) The department shall meet with the council upon request of the council."

Renumber: subsequent sections

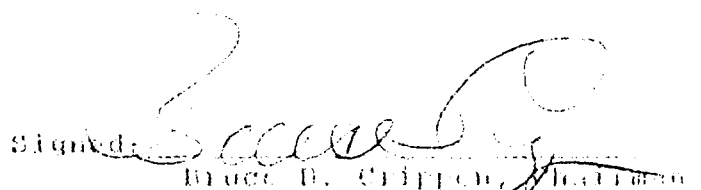
49. Page 66.

Following: line 6

Insert: "(6) [Section 64] is intended to be codified as an integral part of Title 2, chapter 15, part 20, and the provisions of Title 2, chapter 15, apply to [section 64]."

AND AS AMENDED DO PASS

Signed:


Bruce B. Clifton, Chairman

4/16/11
3/12/11
J.P.M.

SENATE BILL NO. 431

INTRODUCED BY GAGE, HARPER, B. BROWN, MAZUREK,

ADDY, STRIZICH, MERCER, CRIPPEN, HANNAH,

HARP, VAN VALKENBURG

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE PUBLIC GAMBLING LAWS OF MONTANA; PROVIDING FOR LICENSURE AND REGULATION OF GAMBLING ACTIVITIES BY THE DEPARTMENT OF JUSTICE; ~~PROVIDING FOR--STATUTORY--APPROPRIATION;~~ PROVIDING FOR AN APPROPRIATION AND A STATUTORY APPROPRIATION; PROVIDING FOR A GAMING ADVISORY COUNCIL; AMENDING SECTIONS ~~17-7-502,~~ 17-7-502, 23-5-101 THROUGH 23-5-104, 23-5-108, 23-5-123, 23-5-131, 23-5-135, 23-5-311 THROUGH 23-5-313, 23-5-321, 23-5-331, 23-5-412 THROUGH 23-5-414, 23-5-431, 23-5-503, 23-5-509, 23-5-602, 23-5-603, 23-5-607, 23-5-608, 23-5-610 THROUGH 23-5-613, 23-5-616, 23-5-625, 23-5-631, 23-5-1101, AND 23-5-1105, MCA; AND REPEALING SECTIONS 23-5-105 THROUGH 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124 THROUGH 23-5-127, 23-5-132 THROUGH 23-5-134, 23-5-141 THROUGH 23-5-144, 23-5-201 THROUGH 23-5-211, 23-5-301 THROUGH 23-5-303, 23-5-314 THROUGH 23-5-316, 23-5-322, 23-5-323, 23-5-332, 23-5-401 THROUGH 23-5-403, 23-5-411, 23-5-415 THROUGH 23-5-418, 23-5-421 THROUGH 23-5-423, 23-5-504 THROUGH 23-5-508, 23-5-510, 23-5-511,

23-5-601, 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23-5-618, 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103, AND 23-5-1104, MCA; AND PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

This bill requires a statement of intent because [section 7] authorizes the department of justice to adopt administrative rules to implement [this act]. [This act] is intended to provide uniform statewide regulation of gambling in Montana under the supervision of the attorney general.

It is the intent of the legislature that the department of justice adopt necessary rules to implement uniform statewide regulation of gambling in Montana consistent with the purposes and policies set forth in [section 1] of this bill.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Public policy of state concerning gambling. (1) The legislature finds that for the purpose of ensuring the proper gambling environment in this state it is necessary and desirable to adopt a public policy regarding public gambling activities in Montana. The legislature therefore declares it is necessary to:

(a) create and maintain a uniform regulatory climate that assures players, owners, tourists, citizens, and others

1 that the gambling industry in this state is fair and is not
2 influenced by corrupt persons, organizations, or practices;

3 (b) protect legal public gambling activities from
4 unscrupulous players and vendors and detrimental influences;

5 (c) protect the public from unscrupulous proprietors
6 and operators of gambling establishments, games, and
7 devices;

8 (d) protect the state and local governments from those
9 who would conduct illegal gambling activities that deprive
10 those governments of their tax revenues;

11 (e) protect the health, safety, and welfare of all
12 citizens of this state, including those who do not gamble,
13 by regulating gambling activities; and

14 (f) promote ~~and--fund~~ programs necessary to provide
15 assistance to those who are adversely affected by legalized
16 gambling, including compulsive gamblers and their families.

17 (2) The legislature adopts the policy that an
18 applicant for a license or permit or other department
19 approval under parts 1 through 6 of this chapter does not
20 have a right to the issuance of a license or permit or the
21 granting of the approval sought. The issuance of a license
22 or permit issued or other department approval granted
23 pursuant to the provisions of parts 1 through 6 of this
24 chapter is a revocable privilege REVOCABLE ONLY FOR GOOD
25 CAUSE. ~~A holder does not acquire a vested right in the~~

1 ~~license--or--permit--issued--or--other--department--approval~~
2 ~~granted. A HOLDER DOES NOT ACQUIRE A VESTED RIGHT IN THE~~
3 ~~LICENSE OR PERMIT ISSUED OR OTHER DEPARTMENT APPROVAL~~
4 GRANTED. A license or permit issued under parts 1 through 6
5 of this chapter may not be sold, assigned, leased, or
6 transferred.

7 (3) Revenue to fund the expense of administration and
8 control of gambling as regulated by parts 1 through 6 of
9 this chapter must be derived solely from fees, taxes, and
10 penalties on gambling activities, except the gambling
11 activities of the Montana state lottery and the parimutuel
12 industry.

13 NEW SECTION. **Section 2.** General application. This
14 chapter applies only to public gambling activities within
15 the state of Montana.

16 **Section 3.** Section 23-5-101, MCA, is amended to read:
17 "23-5-101. Definitions. Unless the context requires
18 otherwise, the following definitions apply to parts 1
19 through 6 of this chapter:

20 (1) ~~A slot machine is defined as a machine operated by~~
21 ~~inserting a coin, token, chip, trade check, or paper~~
22 ~~currency therein by the player and from the play of which he~~
23 ~~obtains or may obtain money, checks, chips, tokens, or paper~~
24 ~~currency--redeemable--in money--Merchandise vending machines~~
25 ~~where the element of chance does not enter into their~~

1 operation--are--not--within--the--provisions--of--this-part-
 2 "Applicant" means a person who has applied for a license or
 3 permit issued by the department pursuant to parts 1 through
 4 6 of this chapter.

5 (2) "Application" means a written request for a
 6 license or permit issued by the department. The department
 7 shall adopt rules describing the forms and information
 8 required for issuance of a license.

9 (3) "Authorized equipment" means, with respect to live
 10 keno or bingo, the--receptacle-and-numbered-objects-drawn
 11 from-it, the-master-board-upon-which-such-objects-are-placed
 12 as-drawn, the-cards--or--sheets--bearing--numbers--or--other
 13 designations--to--be--covered--and-the-objects-used-to-cover
 14 them, the--boards--or--signs, however--operated, used--to
 15 announce--or-display-the-numbers-or-designations-as-they-are
 16 drawn, public-address-system, and--all--other--articles
 17 essential--to--the--operation, conduct, and playing-of-live
 18 keno-or-bingo EQUIPMENT THAT MAY BE INSPECTED BY THE
 19 DEPARTMENT AND THAT RANDOMLY SELECTS THE NUMBERS OR-SYMBOLS.

20 (4) "Bingo" means a game-of-chance GAMBLING ACTIVITY
 21 played for prizes with a card bearing a printed design of 5
 22 columns of 5 squares each, 25 squares in all. The letters
 23 B-I-N-G-O must appear above the design, with each letter
 24 above one of the columns. No more than 75 numbers OR-SYMBOLS
 25 may be used. One number OR-SYMBOL must appear in each

1 square, except for the center square which is--considered--a
 2 free--play, EXCEPT FOR THE CENTER SQUARE, WHICH MAY BE
 3 CONSIDERED A FREE PLAY. Numbers and-letters OR-SYMBOLS are
 4 RANDOMLY drawn from--a-receptacle-and-announced-by-a-bingo
 5 caller using authorized equipment, and UNTIL the game is won
 6 by the person OR PERSONS who first covers COVER a previously
 7 designated arrangement of numbers OR-SYMBOLS on the bingo
 8 card.

9 (5) "Bingo caller" means a person licensed-by-the
 10 department-to-work-as-a-live-bingo-caller 18 YEARS OF AGE OR
 11 OLDER who, using authorized equipment, announces the order
 12 of the objects NUMBERS OR-SYMBOLS drawn in live bingo.

13 (6) "Card game table" or "table" means a live card
 14 game table authorized by permit and made available to the
 15 public on the premises of a licensed gambling operator.

16 (7) "Dealer" means a person with a dealer's license
 17 issued under part 3 of this chapter.

18 (8) "Department" means the department of justice.

19 (9) "Distributor" means a person who:

20 (a) purchases or obtains from another person equipment
 21 of any kind for use in gambling activities; and

22 (b) sells, leases, or otherwise furnishes the
 23 equipment to another person for use in public.

24 (10) "Gambling" or "gambling activity" means risking
 25 money, credit, deposit, check, property, or any other thing

1 of value for a gain that is contingent in whole or in part
 2 upon lot, chance, or the operation of a gambling device or
 3 gambling enterprise.

4 (11) "Gambling device" means a mechanical,
 5 electromechanical, or electronic device, machine, slot
 6 machine, instrument, apparatus, contrivance, scheme, or
 7 system USED OR INTENDED FOR USE IN ANY GAMBLING ACTIVITY.

8 (12) "Gambling enterprise" means an activity, scheme,
 9 or agreement or an attempted activity, scheme, or agreement
 10 to provide gambling or a gambling device to the public.

11 (13) "GROSS PROCEEDS" MEANS GROSS REVENUE RECEIVED LESS
 12 PRIZES PAID OUT.

13 (14) "Illegal gambling device" means a gambling
 14 device not specifically authorized by statute or by the
 15 rules of the department.

16 (15) "Illegal gambling enterprise" means a gambling
 17 enterprise that violates a statute or a rule of the
 18 department.

19 (16) "Keno" means a game of chance in which prizes
 20 are awarded using a card with 8 horizontal rows and 10
 21 columns on which a player may pick up to 10 numbers. A keno
 22 caller, using authorized equipment, shall select at random
 23 AT LEAST 20 numbers out of numbers between 1 and 80,
 24 inclusive.

25 (17) "Keno caller" means a person licensed--by--the

1 department--to-work-as-a-live-keno-caller 18 YEARS OF AGE OR
 2 OLDER who, using authorized equipment, announces the order
 3 of the numbers drawn in live keno.

4 (18) "License" means an operator's, dealer's,
 5 caller's or manufacturer-distributor's license issued to a
 6 person by the department.

7 (19) "Licensee" means a person who has received a
 8 license from the department.

9 (20) "Live card game" OR "card game"--or--"game"
 10 means a card game that is played in public between persons
 11 on the premises of a licensed gambling operator.

12 (21) "Lottery" or "gift enterprise" means a scheme,
 13 by whatever name known, for the disposal or distribution of
 14 property by chance among persons who have paid or promised
 15 to pay valuable consideration for the chance of obtaining
 16 the property or a portion of it or for a share or interest
 17 in the property upon an agreement, understanding, or
 18 expectation that it is to be distributed or disposed of by
 19 lot or chance. However, "gift enterprise" does not mean:

20 (a) lotteries authorized under part 10 of this
 21 chapter; or

22 (b) cash or merchandise attendance prizes or premiums
 23 that the county fair commissioners of agricultural fairs and
 24 rodeo associations may give away at public drawings at fairs
 25 and rodeos.

{21}(22) "Manufacturer" means a person who assembles from raw materials or subparts a completed piece of equipment or pieces of equipment of any kind to be used as a gambling device.

{22}(23) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and operates or controls for use in public, a gambling device or gambling enterprise authorized under parts 1 through 6 of this chapter.

{23}(24) "Permit" means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 6 of this chapter.

{24}(25) In-addition-to-their-ordinary-meaning,--the words--"person" "Person" or "persons"--as-used-in-this-part, include means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious,--fraternal, and charitable organizations.

{25}(26) "Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

{26}(27) "Public GAMBLING" means GAMBLING CONDUCTED IN:

(a) a place, building, or conveyance to which the

public has access or may be permitted to have access; or

(b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious,--fraternal, or charitable organization.

{27}(28) "Raffle" means a gift enterprise in which each participant buys a chance or chances to win a prize.

{28}(29) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner. This definition does not apply to video gambling machines authorized under part 6 of this chapter.

{29}(30) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules of the department."

NEW SECTION. Section 4. Authority of local

1 governments to regulate gambling. (1) A local government may
 2 not license, OR regulate, ~~or otherwise limit~~ a form of
 3 gambling authorized by parts 1 through 6 of this chapter OR
 4 ASSESS OR CHARGE ANY FEES OR TAXES unless specifically
 5 authorized by statute.

6 (2) An incorporated city or town may enact an
 7 ordinance or resolution defining ZONING certain areas within
 8 its incorporated limits in which gambling is prohibited.

9 (3) A county may enact a resolution defining ZONING
 10 certain areas in the county, not within an incorporated city
 11 or town, in which gambling is prohibited.

12 (4) A county or incorporated city or town may not
 13 restrict the number of licenses that the department may
 14 issue.

15 NEW SECTION. Section 5. Department as criminal
 16 justice agency. The department is a criminal justice agency.
 17 Designated agents of the department are granted peace
 18 officer status, WITH THE POWER OF SEARCH, SEIZURE, AND
 19 ARREST, to investigate, ~~regulate, and control all legal and~~
 20 ~~illegal~~ gambling activities in this state regulated by parts
 21 1 through 6 of this chapter and the rules of the department
 22 AND TO REPORT VIOLATIONS TO THE COUNTY ATTORNEY OF THE
 23 COUNTY IN WHICH THEY OCCUR.

24 NEW SECTION. Section 6. Department employees --
 25 activities prohibited. An employee of the department, A

1 FORMER DEPARTMENT EMPLOYEE DURING THE FIRST 365 DAYS
 2 FOLLOWING TERMINATION OF EMPLOYMENT, OR ANY OTHER PERSON
 3 PEACE OFFICER OR PROSECUTOR directly involved with the
 4 prosecution, investigation, regulation, or licensing of
 5 gambling may not:

6 (1) serve as an officer or manager of a corporation or
 7 organization, OTHER THAN A NONPROFIT CORPORATION OR
 8 ORGANIZATION, that conducts a gambling activity;

9 (2) receive or share in, directly or indirectly, any
 10 profit of a gambling activity regulated by the department;

11 (3) have a beneficial or pecuniary interest in a
 12 contract for the manufacture, LEASE, or sale of a gambling
 13 device, the conduct of a gambling activity, or the provision
 14 of independent consultant services in connection with a
 15 gambling activity.

16 NEW SECTION. Section 7. Powers and duties of
 17 department -- licensing. (1) The department shall administer
 18 the provisions of parts 1 through 6 of this chapter.

19 (2) The department shall adopt rules to administer and
 20 implement parts 1 through 6 of this chapter.

21 (3) The department shall provide licensing procedures,
 22 prescribe necessary application forms, and grant or deny
 23 license applications.

24 (4) The department shall prescribe recordkeeping
 25 requirements for licensees, provide a procedure for

inspection of records, provide a method for collection of taxes, and establish penalties for the delinquent reporting and payment of required taxes.

(5) The department may suspend, revoke, deny, or place a condition on a license issued under parts 1 through 6 of this chapter.

(6) The department may not make public or otherwise disclose information obtained in the APPLICATION OR tax reporting processes, except for general statistical reporting or studies.

(7) THE DEPARTMENT SHALL ASSESS, COLLECT, AND DISBURSE ANY FEES, TAXES, OR CHARGES AUTHORIZED UNDER PARTS 1 THROUGH 6 OF THIS CHAPTER.

NEW SECTION. Section 8. Injunction and other remedies. (1) If it appears to the department that a person has engaged in or is about to engage in an act or practice constituting a violation of a provision of parts 1 through 6 of this chapter or a rule or order of the department, it may:

{a}--issue a temporary--cease--and--desist--order--with reasonable--notice--and--opportunity--for--hearing--Following a hearing or if the person to whom the notice is addressed does not request a hearing within 15 days after receipt of the notice, the department may issue a permanent--cease--and--desist--order--that--must--remain--in--effect--pending--an--appeal--or

judicial--review by the person aggrieved by a final order of the department;

{b}--bring, without the issuance of a cease and desist order, an action in district court to enjoin the act or practice; On a proper showing, the court may grant a permanent or temporary injunction, a restraining order, or other appropriate writ and appoint a receiver or conservator for the defendant or the defendant's assets; The department may not be required to post a bond;

{c}--place a licensee on probation;

{d}--suspend a license for a period not to exceed 180 days;

{e}--revoke a license;

{f}--deny renewal of a license upon its expiration;

{g}--impose a civil penalty not to exceed \$10,000 for each violation of a provision of parts 1 through 6 of this chapter or a rule of the department, whether or not the person is licensed by the department;

{h}--impose a combination of the penalties provided in subsections {i}{a} through {i}{g};

{2}--A fine imposed by a district court or by the department under this section must be collected by the department and deposited in the special revenue account as provided in 23-5-123;

{3}--Imposition of a fine under this section is an

order from which an appeal may be taken pursuant to {section 12}.

{4}--If a person fails to pay a fine imposed under this section, the fine is a lien on all of the assets and property of the person in the state and may be recovered by the department in a civil action.

{5}--If a person fails to pay a fine imposed under this section, he may not be licensed to operate a gambling device or gambling enterprise in the state under parts 1 through 6 of this chapter. A PERSON HAS ENGAGED OR IS ENGAGING IN AN ACT OR PRACTICE CONSTITUTING A VIOLATION OF A PROVISION OF PARTS 1 THROUGH 6 OF THIS CHAPTER OR A RULE OR ORDER OF THE DEPARTMENT, THE DEPARTMENT MAY:

(A) ISSUE A TEMPORARY ORDER TO CEASE AND DESIST FROM THE GAMBLING ACTIVITY, ACT, OR PRACTICE FOR A PERIOD NOT TO EXCEED 60 DAYS; AND

(B) FOLLOWING NOTICE AND AN OPPORTUNITY FOR HEARING, AND WITH THE RIGHT OF JUDICIAL REVIEW, UNDER THE MONTANA ADMINISTRATIVE PROCEDURE ACT:

(I) ISSUE A PERMANENT ORDER TO CEASE AND DESIST FROM THE ACT OR PRACTICE, WHICH ORDER REMAINS IN EFFECT PENDING JUDICIAL REVIEW;

(II) PLACE A LICENSEE ON PROBATION;

(III) SUSPEND FOR A PERIOD NOT TO EXCEED 180 DAYS A LICENSE OR PERMIT FOR THE GAMBLING ACTIVITY, DEVICE, OR

ENTERPRISE INVOLVED IN THE ACT OR PRACTICE CONSTITUTING THE VIOLATION;

(IV) REVOKE A LICENSE OR PERMIT FOR THE GAMBLING ACTIVITY, DEVICE, OR ENTERPRISE INVOLVED IN THE ACT OR PRACTICE CONSTITUTING THE VIOLATION;

(V) IMPOSE A CIVIL PENALTY NOT TO EXCEED \$10,000 FOR EACH VIOLATION, WHETHER OR NOT THE PERSON IS LICENSED BY THE DEPARTMENT; AND

(VI) IMPOSE ANY COMBINATION OF THE PENALTIES CONTAINED IN THIS SUBSECTION (1)(B); AND

(C) BRING AN ACTION IN DISTRICT COURT FOR RELIEF AGAINST THE ACT OR PRACTICE. THE DEPARTMENT MAY NOT BE REQUIRED TO POST A BOND. ON PROPER SHOWING, THE COURT MAY:

(I) ISSUE A RESTRAINING ORDER, A TEMPORARY OR PERMANENT INJUNCTION, OR OTHER APPROPRIATE WRIT;

(II) SUSPEND OR REVOKE A LICENSE OR PERMIT; AND

(III) APPOINT A RECEIVER OR CONSERVATOR FOR THE DEFENDANT OR THE ASSETS OF THE DEFENDANT.

(2) A CIVIL PENALTY IMPOSED UNDER THIS SECTION MUST BE COLLECTED BY THE DEPARTMENT AND DEPOSITED IN THE STATE'S GENERAL FUND AS REQUIRED BY 23-5-123. IF A PERSON FAILS TO PAY THE CIVIL PENALTY, THE AMOUNT DUE IS A LIEN ON THE PERSON'S LICENSED PREMISES AND GAMBLING DEVICES IN THE STATE AND MAY BE RECOVERED BY THE DEPARTMENT IN A CIVIL ACTION.

Section 9. Section 23-5-123, MCA, is amended to read:

1 "23-5-123. Disposal of money confiscated by reason of
 2 violation of gambling laws. All money seized or taken by any
 3 peace officer and confiscated by order of any court, by
 4 reason of a violation of the gambling laws of the state of
 5 Montana, shall be deposited with the county treasurer of the
 6 county in which such seizure and confiscation was made and
 7 shall be credited to the poor fund of the county. All fines,
 8 penalties, forfeitures, and confiscated money collected by
 9 criminal, civil, or administrative process for a violation
 10 of a provision of parts 1 through 6 of this chapter or a
 11 rule of the department must be deposited ONE-HALF in a
 12 special revenue account for use by the department for:
 13 (1) training law enforcement personnel in the
 14 investigation of illegal gambling activity;
 15 (2) training persons licensed under the authority of
 16 the department; or
 17 (3) funding programs designed to treat persons with
 18 habitual gambling problems. THE STATE'S GENERAL FUND AND
 19 ONE-HALF IN THE GENERAL FUND OF THE COUNTY IN WHICH THE
 20 VIOLATION OCCURRED."

21 NEW SECTION. Section 10. Qualifications for
 22 licensure. (1) A person whom the department determines is
 23 qualified to receive a license under the provisions of this
 24 chapter, except for the provisions of part 10, may, BASED ON
 25 INFORMATION AVAILABLE TO, REQUIRED BY, OR SUPPLIED TO THE

1 DEPARTMENT UNDER DEPARTMENT RULES, be issued a state
 2 gambling license.

3 (2) The applicant has the burden of proving his
 4 qualification to receive a license.

5 (2) THE DEPARTMENT SHALL ISSUE A LICENSE UNLESS THE
 6 DEPARTMENT CAN DEMONSTRATE THAT THE APPLICANT IS:

7 (A) A PERSON WHOSE PRIOR ACTIVITIES OR CRIMINAL
 8 RECORD:

9 (I) POSES A THREAT TO THE PUBLIC INTEREST OF THE STATE
 10 OR THE EFFECTIVE REGULATION AND CONTROL OF GAMBLING; OR

11 (II) CREATES A DANGER OF ILLEGAL PRACTICES, METHODS, OR
 12 ACTIVITIES IN THE CONDUCT OF GAMBLING OR IN THE CARRYING ON
 13 OF THE BUSINESS AND FINANCIAL ARRANGEMENTS INCIDENTAL TO
 14 GAMBLING; OR

15 (B) RECEIVING A SUBSTANTIAL AMOUNT OF FINANCING FOR
 16 THE PROPOSED OPERATION FROM AN UNSUITABLE SOURCE. A LENDER
 17 OR OTHER SOURCE OF MONEY OR CREDIT THAT THE DEPARTMENT FINDS
 18 TO MEET THE PROVISIONS OF SUBSECTION (2)(A) MAY BE
 19 CONSIDERED AN UNSUITABLE SOURCE.

20 (3) An application for a license may not be granted
 21 unless the department is satisfied that the applicant is:

22 (a) a person of good character, honesty, and
 23 integrity;

24 (b) a person whose prior activities, criminal record,
 25 if any, reputation, habits, and associations do not:

~~{i}--pose--a-threat-to-the-public-interest-of-the-state
or-to-the-effective-regulation-and-control-of--gambling;--or
{ii}--create--or-enhance-the-dangers A-DANGER of-illegal
practices;--methods;--and--activities--in--the--conduct---of
gambling-or-in-the-carrying-on-of-the-business-and-financial
arrangements-incident-to-the-conduct-of-gambling;--and~~

~~{c}--in--all--other--respects--qualified-to-be-licensed
consistent-with-the-declared-gambling-policy-of--the--state;~~

~~{4}--A--license--to-operate-a-gambling-activity-may-not
be-issued-unless--the--applicant--has--demonstrated--to--the
department-that:~~

~~{a}--the---applicant--has--adequate--business--probity,
competence;--and--experience;--and~~

~~{b}--the-proposed-financing-of-the-entire-operation-is:~~

~~{i}--adequate-for-the-nature-of-the-proposed-operation;
and~~

~~{ii}--from-a-suitable-source--A-lender-or--other--source
of--money--or-credit-that-the-department-finds-does-not-meet
the-standards-set-forth-in-subsection-{3}-may-be--considered
unsuitable;~~

NEW SECTION. Section 11. Operator of gambling establishment -- license -- fee. (1) It is a misdemeanor for a person who is not licensed by the department as an operator to make available to the public for play a gambling device or gambling enterprise.

(2) An operator's license must include the following information:

(a) a description of the premises upon which the gambling will take place;

(b) the operator's name;

(c) a description of each gambling device or card game table licensed to the operator by the department for play upon the premises, including the type of game and license number or decal number for each licensed game; and

(d) any other relevant information determined necessary by the department.

(3) The operator's license must be issued annually along with all other licenses for gambling devices or games licensed to the operator.

(4) The operator's license must be updated each time a gambling device or card game table license is newly issued or the device or game is removed from the premises.

(5) The department may not charge a fee for the issuance of an operator's license.

(6) The operator's license must be prominently displayed upon the premises for which it is issued.

NEW SECTION. Section 12. Judicial review. (1) (a) A person aggrieved by a final order of the department may obtain a review of the order in district court by filing with the court, within 30 days after entry of the final

1 order, a written petition requesting that the order be
2 modified or set aside in whole or in part.

3 (b) A copy of the petition must be served upon the
4 department at the same time. When the department receives
5 the copy of the petition, it shall certify and file in court
6 a copy of the filing, testimony, and other evidence upon
7 which the final order was entered by the department. When
8 these have been filed with the court, the court has
9 exclusive jurisdiction to affirm, modify, enforce, or set
10 aside the final order in whole or in part. A temporary cease
11 and desist order from the department must MAY remain in
12 effect ~~and cannot be set aside by the court~~ until a hearing
13 has been held and a final order has been issued pursuant to
14 [section 8].

15 (2) (a) The review must be conducted by the district
16 court without a jury and must be confined to the record. In
17 a case of alleged irregularity in procedure before the
18 department not shown in the record, proof may be taken by
19 the court. The court, upon request, shall hear oral argument
20 and receive written briefs.

21 (b) The court may not substitute its judgment for that
22 of the department as to the weight of the evidence on
23 questions of fact. The court may affirm the decision of the
24 department or remand the case for further proceedings. The
25 court may reverse or modify the decision if substantial

1 rights of the appellant have been prejudiced because the
2 administrative findings, inferences, conclusions, or
3 decisions are:

4 (i) in violation of a constitutional or statutory
5 provision;

6 (ii) in excess of the statutory authority of the
7 department;

8 (iii) made upon unlawful procedure;

9 (iv) affected by other error of law;

10 (v) clearly erroneous in view of the reliable,
11 probative, and substantial evidence on the whole record;

12 (vi) arbitrary or capricious or characterized by abuse
13 of discretion or clearly unwarranted exercise of discretion;
14 or

15 (vii) inadequate because findings of fact, upon issues
16 essential to the decision, were requested but not made.

17 (3) The commencement of proceedings under this
18 section, unless specifically ordered by the court, may not
19 operate as a stay of the department's final order.

20 **Section 13.** Section 23-5-131, MCA, is amended to read:

21 "23-5-131. Losses at ILLEGAL gambling may be recovered
22 in civil action. ~~If any person, by playing or betting at any~~
23 ~~of the games prohibited by this part, loses to another~~
24 ~~person any sum of money or any thing of value and pays or~~
25 ~~delivers the same or any part thereof to any person~~

1 connected-with-the-operating-or--conducting--of--such--game,
 2 either--as--owner,--dealer,--or--operator,--the-person-who-so
 3 loses-and-pays-or-delivers-may,--at-any-time-within--60--days
 4 next--after--the--loss--and-payment-or-delivery,--sue-for-and
 5 recover-the-money-or-thing-of-value--so--lost--and--paid--or
 6 delivered--or--any--part--thereof--from-any-person-having-any
 7 interest,--direct--or--contingent,--in--the--game--as--owner,
 8 backer,--or--otherwise,--with-costs-of-suit,--by-civil-action
 9 before-any-court-of-competent--jurisdiction,--together--with
 10 exemplary-damages-which-in-no-case-shall-be-less-than-\$50-or
 11 more--than-\$500,--and-may-join-as-defendants-in-said-suit-all
 12 persons-having-any-interest,--direct-or-contingent,--in--such
 13 game--as--backers,--owners,--or--otherwise. A person, or his
 14 dependent or guardian, who, by playing or betting at an
 15 illegal gambling device or illegal gambling enterprise,
 16 loses money, property, or any other thing of value and pays
 17 and delivers it to another person connected with the
 18 operation or conduct of the illegal gambling device or
 19 illegal gambling enterprise, within 1 year following his
 20 loss, may:

21 (1) bring a civil action in a court of competent
 22 jurisdiction to recover the loss;

23 (2) recover the costs of the civil action and
 24 exemplary damages of no less than \$500 and no more than
 25 \$5,000; and

1 (3) join as a defendant any person having an interest
 2 in the illegal gambling device or illegal gambling
 3 enterprise."

4 **Section 14.** Section 23-5-135, MCA, is amended to read:

5 "23-5-135. Discharge of defendant. Upon-discovery-and
 6 repayment--of--the--money--or--other---thing,---the---person
 7 discovering--and--repaying--the-same,--with-costs-and-such-an
 8 amount-of-exemplary-damages-as-may-be-agreed--upon--by--the
 9 parties--or--fixed--by--the-court,--shall--be-acquitted-and
 10 discharged-from-any-further-or-other-forfeiture,--punishment,
 11 penalty,--or-prosecution-he-or-they-may-have-incurred-for--so
 12 winning--such--money--or--thing-discovered-and-repaid; (1) A
 13 person against whom a civil action is brought as provided in
 14 23-5-131 may move to have the action against him dismissed
 15 if he has repaid to the person who suffered the loss or his
 16 dependent the gambling loss, the costs of bringing the civil
 17 action, and the exemplary damages agreed upon by the parties
 18 or assessed by the court.

19 (2) A civil action brought to recover gambling losses
 20 does not bar or interfere with another proceeding or action,
 21 whether criminal, civil, or administrative, that may be
 22 brought under the laws of the state.

23 (3) The clerk of the court shall notify the department
 24 of a JUDGMENT IN A civil action based on a violation of a
 25 provision of this chapter."

Section 15. Section 23-5-102, MCA, is amended to read:

"23-5-102. Gambling prohibited ---penalty. Except as otherwise provided by law, a person who engages in gambling in any form with cards, dice, or other implements or devices of any kind wherein anything valuable may be wagered upon the outcome or who keeps any establishment, place, equipment, or apparatus for such gambling or any agents or employees for such purpose is guilty of a misdemeanor and is punishable by a fine of not less than \$100 or more than \$1,000 or imprisonment not less than 3 months or more than 1 year or by both such fine and imprisonment specifically authorized by statute, all forms of public gambling, lotteries, and gift enterprises are prohibited."

NEW SECTION. Section 16. Counterfeiting or defacing documents -- penalty. (1) A person commits the offense of counterfeiting or defacing a document when he purposely or knowingly counterfeits, alters, or wrongfully displays a seal, decal, license, identification number or device, or other document issued by the department.

(2) A person convicted of the offense of counterfeiting or defacing a document is guilty of a felony and must be punished in accordance with [section 24].

Section 17. Section 23-5-108, MCA, is amended to read:

"23-5-108. Soliciting or persuading persons to visit play illegal gambling resorts device prohibited. Any person

who persuades or solicits another to visit any room, tent, apartment, or place used or represented by the person soliciting or persuading to be a place used for the purpose of running any of the games prohibited by this part shall be punished by a fine of not less than \$100 or more than \$1,000 or imprisonment not less than 3 months or more than 1 year or by both such fine and imprisonment in the county jail. A person who advertises for or solicits another person to play or engage in the use of an illegal gambling device is guilty of a misdemeanor and is punishable under [section 23]."

NEW SECTION. Section 18. Obtaining anything of value by fraud or operation of illegal gambling device or enterprise. (1) A person who by gambling obtains money, property, or anything of value that does not exceed \$300 in value by misrepresentation, fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a misdemeanor and is punishable as provided in [section 23].

(2) A person who by gambling obtains money, property, or anything of value that exceeds \$300 in value by misrepresentation, fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a felony and is punishable as provided in [section 24].

NEW SECTION. Section 19. Gambling on cash basis. (1) In every gambling activity, EXCEPT RAFFLES AS AUTHORIZED IN

~~{SECTION-41}~~ 23-5-413, the consideration paid for the chance to play must be cash. A participant shall present the money needed to play the game as the game is being played. A check, credit card, note, I O U, or other evidence of indebtedness may not be offered or accepted as part of the price of participation in the gambling activity or as payment of a debt incurred in the gambling activity. THE USE OF A CHECK OR CREDIT CARD TO PAY FOR OTHER GOODS OR SERVICES IN THE ESTABLISHMENT OR TO OBTAIN CASH IS NOT A VIOLATION OF THIS SECTION.

(2) A person who violates this section is guilty of a misdemeanor and must be punished in accordance with [section 23].

NEW SECTION. Section 20. Minors not to participate -- penalty. (1) A PERSON MAY NOT PURPOSELY OR KNOWINGLY ALLOW A person under 18 years of age may--not--be-permitted to participate in a gambling activity.

(2) A person who violates this section is guilty of a misdemeanor and must be punished in accordance with [section 23].

Section 21. Section 23-5-103, MCA, is amended to read:

"23-5-103. Possession of illegal gambling implements device prohibited -- exception. Any (1) Except as provided in {section-22} 23-5-104 and subsection (2) of this section, it is a misdemeanor punishable under [section 23] for a

person who--has to PURPOSELY OR KNOWINGLY have in his possession or under his control or who-permits to PURPOSELY OR KNOWINGLY permit to be placed, maintained, or kept in any room, space, enclosure, or building owned, leased, or occupied by him or under his management or control any-faro box,--faro--layout,--roulette--wheel,--roulette--table,--crap table,--punchboard,--or-any-machine-or-apparatus-of-the-kind mentioned-in-23-5-102-is-punishable-by-a-fine--of--not--less than--\$100-or-more-than-\$1,000-and-may-be-imprisoned-for-not less-than-3-months-or-more-than-1-year-in-the-discretion--of the--court,--provided-that-this-section-shall-not an illegal gambling device. This section does not apply to a public officer or to a person coming into possession thereof of an illegal gambling device in or by reason of the performance of an official duty and holding the-same it to be disposed of according to law.

(2) (a) The department may adopt rules to license persons to manufacture gambling devices that are not legal for public play in the state and are manufactured only for export from the state.

(b) A person may not manufacture or possess an illegal gambling device for export from the state without having obtained a license from the department. The department may charge an administrative fee for the license that is commensurate with the cost of issuing the license."

Section 22. Section 23-5-104, MCA, is amended to read:

"23-5-104. Slot-machines-----possession-unlawful----
exception Possession of antique slot machines. (1) Except as
provided in subsections (2) through (5), it shall be a
misdemeanor and punishable as hereinafter provided for any
person to use, possess, operate, keep, or maintain for use
or operation or otherwise, anywhere within the state of
Montana, any slot machine of any sort or kind whatsoever.

(2) The provisions of subsection (1) and 23-5-121 do
not apply to antique slot machines possessed, located, and
used in accordance with subsections (2) through (5). For the
purposes of subsections (2) through (5), an antique slot
machine is a slot machine manufactured prior to 1950, the
operation of which is exclusively mechanical in nature and
is not aided in whole or in part by any electronic means. An
antique slot machine is a slot machine manufactured prior to
1950 that is operated exclusively by mechanical means and is
not aided in whole or in part by any electrical means. FOR
THE PURPOSES OF THIS SECTION, AN ANTIQUE SLOT MACHINE IS A
SLOT MACHINE MANUFACTURED PRIOR TO 1950, THE OPERATION OF
WHICH IS EXCLUSIVELY MECHANICAL IN NATURE AND IS NOT AIDED
IN WHOLE OR IN PART BY ANY ELECTRONIC MEANS.

(3)(2) Except as provided in subsection (4) (3), an
antique slot machines machine may be possessed, located, and
operated only in a private residential dwelling.

(4)(3) Antique--slot--machines An antique slot machine
may be possessed or located for purposes of display only and
not for operation in any public museum owned and operated by
the state of Montana, or a county, or a city. A LICENSED
MANUFACTURER-DISTRIBUTOR MAY POSSESS AND SELL ANTIQUE SLOT
MACHINES.

(5)(4) No antique slot machine may be operated for any
commercial or charitable purpose."

NEW SECTION. **Section 23.** Criminal liabilities --
misdemeanor. A person who purposely or knowingly violates a
provision of parts 1 through 6 of this chapter, the
punishment of which is for a misdemeanor, must, upon
conviction, OF A FIRST OFFENSE be fined not less MORE than
\$500 or more than \$5,000, or imprisoned for not more than 1
year, or both, for each violation. UPON A SECOND CONVICTION
WITHIN 5 YEARS OF A FIRST CONVICTION, A PERSON MUST BE FINED
NOT MORE THAN \$1,000 OR IMPRISONED IN THE COUNTY JAIL FOR
NOT MORE THAN 6 MONTHS, OR BOTH. UPON A THIRD CONVICTION
WITHIN 5 YEARS OF A SECOND CONVICTION, A PERSON MUST BE
FINED NOT MORE THAN \$10,000 OR IMPRISONED IN THE COUNTY JAIL
FOR NOT MORE THAN 1 YEAR, OR BOTH. UPON A FOURTH CONVICTION
WITHIN 5 YEARS OF A THIRD CONVICTION, A PERSON MUST BE FINED
NOT MORE THAN \$10,000 OR IMPRISONED IN THE COUNTY JAIL FOR
NOT MORE THAN 1 YEAR, OR BOTH, AND THE DEPARTMENT SHALL
REVOKE ALL LICENSES AND PERMITS THE PERSON HOLDS UNDER PARTS

1 THROUGH 6 OF THIS CHAPTER AND THE PERSON IS FOREVER BARRED FROM RECEIPT OF ANY LICENSE OR PERMIT UNDER THIS CHAPTER. WHEN 5 YEARS HAVE PASSED FOLLOWING A CONVICTION, THE RECORD OF THAT CONVICTION MAY BE MADE AVAILABLE ONLY TO CRIMINAL JUSTICE AGENCIES OR UPON COURT ORDER.

NEW SECTION. Section 24. Criminal liabilities -- felony. A person who purposely or knowingly violates a provision of parts 1 through 6 of this chapter, the punishment for which is a felony, may upon conviction be fined not more than \$50,000 or imprisoned for not more than 10 years, or both, for each violation. ~~However, if the person previously has been convicted of a felony involving a gambling device, gambling activity, or gambling enterprise, he must be imprisoned for at least 2 years.~~

NEW SECTION. Section 25. Prosecution. The county attorney of the county in which a violation of a provision of parts 1 through 6 of this chapter occurs shall prosecute all gambling actions within the jurisdiction of the department. However, if the county attorney declines prosecution or fails to commence an action within a reasonable time, the attorney general may initiate and conduct the prosecution on behalf of the state.

Section 26. Section 23-5-311, MCA, is amended to read:

"23-5-311. Authorized card games. ~~{1} It is unlawful for any person to conduct or participate in any card game or~~

~~make any tables available for the playing of card games except those card games authorized by this part.~~

~~{2}(1) The card games authorized by this part are and are limited to the card games known as bridge, cribbage, hearts, panguingue, pinochle, pitch, poker {INCLUDING JACKS OR BETTER}, rummy, solo, and whist, solo, and poker.~~

~~(2) A person may only conduct or participate in a live card game or make a live card game table available for public play of a live card game that ONLY IF IT is specifically authorized by this part and described by department rules.~~

~~(3) This part does not apply to games simulated on electronic video gambling machines authorized under part 6 of this chapter."~~

NEW SECTION. Section 27. Presence and control of dealer. A live card game may not be played except on a live card game table in the presence and under the control of a licensed dealer on the premises of a licensed operator.

NEW SECTION. Section 28. Card game dealers -- license. (1) A person may not deal cards in a live card game without being licensed annually by the department.

(2) The fee for each THE FIRST year in which the license is effective ~~must be commensurate with the administrative costs associated with dealer licensing as established by department rules~~ IS \$75, AND THE ANNUAL

1 RENEWAL FEE IS \$25. The fee may not be prorated.

2 (3) The department shall retain for administrative
3 purposes the license fee charged for the issuance of a
4 dealer's license.

5 (4) A licensed dealer shall have on his person, and
6 display upon request, his dealer's license when he is
7 working as a dealer.

8 (5) The department may SHALL adopt rules to implement
9 temporary licensing procedures until a permanent license is
10 issued to a dealer. THE RULES MUST PROVIDE THAT A TEMPORARY
11 LICENSE MAY BE OBTAINED AT THE PLACE WHERE A PERSON LOCALLY
12 APPLIES FOR A DRIVER'S LICENSE AND THAT THE RECEIPT RECEIVED
13 UPON MAILING AN APPLICATION FOR A PERMANENT LICENSE BY
14 CERTIFIED MAIL, RETURN RECEIPT REQUESTED, ALSO CONSTITUTES A
15 TEMPORARY LICENSE. The department may ~~delegate the authority~~
16 ~~to issue temporary licenses to local governments including~~
17 ~~the authority to~~ NOT assess and ~~retain~~ a fee for the
18 temporary license.

19 NEW SECTION. Section 29. Live card game table --
20 permit -- fees -- disposition of fees. (1) A person who has
21 been granted an operator's license under [section 11] and a
22 license under 16-4-401(2) to sell alcoholic beverages for
23 consumption on the premises ~~OR WHO OPERATES AN ESTABLISHMENT~~
24 ~~FOR THE PRINCIPAL PURPOSE OF GAMING AND HAS BEEN GRANTED AN~~
25 ~~OPERATOR'S LICENSE UNDER SECTION 11~~ may be granted an

1 annual permit for the placement of live card game tables.
2 IF ONE OR MORE LIVE CARD GAME TABLES WERE LEGALLY OPERATED
3 ON A PREMISES ON JANUARY 15, 1989, AND THE PREMISES WERE NOT
4 ON THAT DATE LICENSED UNDER 16-4-401(2) BUT WERE LICENSED ON
5 THAT DATE TO SELL FOOD, CIGARETTES, OR ANY OTHER CONSUMABLE
6 PRODUCT, AN OPERATOR'S LICENSE AND AN ANNUAL PERMIT FOR THE
7 PLACEMENT OF LIVE CARD GAME TABLES MAY BE GRANTED TO THE
8 PERSON WHO LEGALLY OPERATED THE PREMISES ON JANUARY 15,
9 1989.

10 (2) The annual permit fee in lieu of taxes for each
11 live card game table operated in a licensed operator's
12 premises may not be prorated and must be:

13 (a) \$250 for the first table; AND

14 (b). \$750 \$500 for the ~~second table~~; and

15 ~~(c) \$1,000 for the third and~~ each additional table.

16 (3) The department shall retain for administrative
17 purposes \$100 of the fee collected under this part for each
18 live card game table.

19 (4) The department shall forward on a quarterly basis
20 the remaining balance of the fee collected under subsection
21 (2) to the treasurer of the county, or the clerk, finance
22 officer, or treasurer of the city or town in which the live
23 card game table is located for deposit to the county or
24 municipal treasury. A COUNTY IS NOT ENTITLED TO PROCEEDS
25 FROM FEES ASSESSED ON LIVE CARD GAME TABLES LOCATED IN

INCORPORATED CITIES AND TOWNS WITHIN THE COUNTY. The local government portion of this fee is statutorily appropriated to the department as provided in 17-7-502 for deposit to the county or municipal treasury. THE LOCAL GOVERNMENT PORTION OF THIS FEE IS STATUTORILY APPROPRIATED TO THE DEPARTMENT, AS PROVIDED IN 17-7-502, FOR DEPOSIT TO THE COUNTY OR MUNICIPAL TREASURY.

Section 30. Section 23-5-321, MCA, is amended to read:

"23-5-321. Bicensing Issuance of permits by local governing bodies prohibited. (1) Any A city, town, or county may not issue licenses permits for the live card games provided for or live card game tables authorized in this part, to be conducted on premises which have been licensed for the sale of liquor, beer, food, cigarettes, or any other consumable products. Within the cities or towns, such licenses may be issued by the city or town council or commission. Licenses for games conducted on premises outside the limits of any city or town may be issued by the county commissioners of the respective counties. When a license has been required by any city, town, or county, no game as provided for in this part shall be conducted on any premises which have been licensed for the sale of liquor, beer, food, cigarettes, or any other consumable product without such license having first been obtained.

(2) Any governing body may charge an annual license

fee for each license so issued under this part, which license fee, if any, shall expire on June 30 of each year, and such fee shall be prorated.

(3) Any license issued pursuant to this part shall be deemed to be a revocable privilege, and no holder thereof may acquire any vested rights therein or thereunder."

Section 31. Section 23-5-312, MCA, is amended to read:

"23-5-312. Prizes not to exceed one three ONE THREE hundred dollars. No prize for any individual game shall exceed the value of \$100. A prize for an individual live card game may not exceed the value of \$300 \$100 \$300. Games shall may not be combined in any manner so as to increase the value of the ultimate prize awarded."

NEW SECTION. Section 32. Live card game tables -- hours of play -- restriction -- exception. Live card game tables must be closed for play between the hours of 2 a.m. and 8 a.m. each day. However, in the jurisdiction of a local government where the table is located, the local government may adopt an ordinance defining the hours of play within that jurisdiction. HOWEVER, IN THE JURISDICTION OF A LOCAL GOVERNMENT WHERE A GAME IS PLAYED, THE LOCAL GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2 A.M. AND 8 A.M.

Section 33. Section 23-5-313, MCA, is amended to read:

"23-5-313. Rules of play to be posted -- rake-off

approved. Rules governing the conduct of each game shall must be prominently posted within the sight of the players at a live card game table on the premises of any--licensed establishment--where--such--game--is--conducted a licensed operator. Such The rules shall must include notice of the maximum percentage rake-off, if any, and shall must require that the person taking the rake-off do so in an obvious manner and--only--after--announcing--the--amount--of--each rake-off,--which--shall--only--be--taken--at--the--conclusion--of each--game--when--the--winner--of--each--individual--pot--has--been determined."

Section 34. Section 23-5-331, MCA, is amended to read:

"23-5-331. Penalty. Every A person who willfully purposely or knowingly violates or who procures, aids, or abets in the--willful a violation of this part or any ordinance, resolution, or regulation rule adopted pursuant thereto--shall--be--deemed to this part is guilty of a misdemeanor and--upon--conviction--shall--be--punished--by--a--fine of--not--more--than--\$1,000--or--imprisonment--in--the--county--jail for--not--more--than--3--months,--or--both punishable pursuant to [section 23]."

NEW SECTION. Section 35. Authorized live bingo, keno, and raffles. (1) A person may only conduct or participate in a live bingo and keno game or raffle ONLY IF IT IS operated pursuant to this part.

(2) This part does not apply to a game simulated on a video gambling machine authorized by part 6 of this chapter.

NEW SECTION. Section 36. Exempt charitable organizations. An organization qualified for exemption under 26 U.S.C. 501(c)(3) and (c)(4) ON JANUARY 15, 1989, is exempt from the taxation and license fees imposed by this part. AN ORGANIZATION QUALIFIED FOR EXEMPTION UNDER THAT SECTION AFTER THAT DATE IS EXEMPT FROM TAXATION UNDER, AND NEED ONLY PAY ONE-HALF THE LICENSE FEES UNDER, THIS PART IF THE ORGANIZATION CARRIES ON GAMBLING ACTIVITIES FOR NO MORE THAN 60 DAYS A CALENDAR YEAR AND IF THE ACTIVITIES ARE LIMITED TO ITS MAIN PREMISES OR PLACE OF OPERATIONS AND TO EVENTS AT OTHER PLACES OPERATED BY OTHER CHARITABLE ORGANIZATIONS OR BY A GOVERNMENT UNIT OR ENTITY. The organization shall comply with other statutes and rules relating to the operation of live bingo and keno or raffles. A qualified organization shall apply to the department for a cost-free permit to conduct charitable live bingo and keno games or raffles. THE DEPARTMENT MAY REVOKE OR SUSPEND THE PERMIT OF A QUALIFIED ORGANIZATION THAT, AFTER INVESTIGATION, THE DEPARTMENT DETERMINES IS CONTRACTING WITH A NONQUALIFIED ORGANIZATION TO OPERATE LIVE BINGO, KENO, OR RAFFLES IN A PREDOMINANTLY COMMERCIAL MANNER.

NEW SECTION. Section 37. Bingo and keno callers qualifications-----license-----fee---{1}---A person may not act

as-a-bingo-or-keno-caller-without-being-licensed-annually-by
the-department.

{2}--The-fee-for-each-year--in--which--the--license--is
effective--must--be--commensurate--with-the-costs-associated
with-bingo--or--keno--caller--licensing--as--established--by
department-rules--The-fee-may-not-be-prorated.

{3}--The--department--shall--retain--for-administrative
purposes-the-license-fee-charged-for-the-issuance-of-a-bingo
or-keno-caller's-license.

{4}--A-bingo-or-keno-caller-shall-have-on--his--person,
and-display-upon-request, his-bingo-or-keno-caller's-license
whenever-he-is-working-as-a-bingo-or-keno-caller.

{5}--The---department---may---adopt---rules---to---implement
temporary-licensing-procedures-until-a-permanent-license--is
issued--The--department-may-delegate-the-authority-to-issue
temporary--licenses--to--local--governments,--including--the
authority--to--assess--and--retain--a--fee--for--a-temporary
license.

NEW SECTION. Section 37. Live bingo or keno permit --
fees -- disposition of fees. (1) A person who has been
granted an operator's license may be granted an annual
permit by the department to conduct live bingo or keno games
on specified premises.

(2) The permit fee for each of the premises in which a
live bingo or keno game is conducted may not be prorated and

must be \$500.

(3) The department shall retain the permit fee for
administrative costs.

NEW SECTION. Section 38. Bingo and keno gross
proceeds tax -- records -- distribution -- quarterly
statement and payment. (1) A licensee who has received a
permit to operate bingo or keno games shall pay to the
department a tax of 3% 5% of the gross-proceeds NET INCOME
from the operation of each live bingo and keno game operated
on his premises. FOR PURPOSES OF THIS SECTION, "NET INCOME"
MEANS GROSS PROCEEDS, AS DEFINED IN 23-5-101, MINUS THE COST
OF EQUIPMENT, SUPPLIES, PERSONNEL, AND ADVERTISING ALLOCATED
TO THE GAMES. IF IN ANY YEAR 5% OF NET INCOME DOES NOT EQUAL
1% OF GROSS PROCEEDS, THEN THE LICENSEE SHALL PAY A TAX OF
1% OF GROSS PROCEEDS.

(2) A licensee shall keep a record of gross proceeds
AND NET INCOME in the form the department requires. At all
times during the business hours of the licensee the records
must be available for inspection by the department.

(3) A licensee shall, within-15-days-after-the-end--of
each---quarter, ANNUALLY complete and deliver to the
department a statement showing the total gross proceeds AND
NET INCOME for each live keno or bingo game operated by him
and the total amount due as live bingo or keno gross
proceeds tax for the preceding quarter YEAR. This statement

1 must contain any other relevant information required by the
2 department.

3 (4) The department shall forward the tax collected
4 under subsection (3) to the treasurer of the county or the
5 clerk, finance officer, or treasurer of the city or town in
6 which the licensed game is located for deposit to the county
7 or municipal treasury. A county is not entitled to proceeds
8 from taxes on live bingo or keno games located in
9 unincorporated INCORPORATED cities and towns within the
10 county. ~~The---tax---collected---under---subsection---(3)---is~~
11 ~~statutorily-appropriated-to-the-department--as--provided--in~~
12 ~~17-7-502--for--deposit--to-the-county-or-municipal-treasury-~~
13 THE TAX COLLECTED UNDER SUBSECTION (3) IS STATUTORILY
14 APPROPRIATED TO THE DEPARTMENT, AS PROVIDED IN 17-7-502, FOR
15 DEPOSIT TO THE COUNTY OR MUNICIPAL TREASURY.

16 **Section 39.** Section 23-5-412, MCA, is amended to read:

17 "23-5-412. Bingo Card prices and prizes. The price for
18 an individual bingo or keno card may not exceed 50 cents.
19 Bingo prizes may be paid in either tangible personal
20 property or cash, ~~--except--that--a--prize--must--be--paid--in~~
21 tangible-personal-property--if--the--game--is--played--on--a
22 player-operated--electronic-video-game-machine. A prize may
23 not exceed the value of \$100 ~~\$300~~ \$100 for each individual
24 bingo award or keno card. ~~The-price-for-an-individual-bingo~~
25 card-may-not-exceed-50-cents. It shall-be is unlawful to, in

1 any manner, combine any awards so as to increase the
2 ultimate value of such the award. A PLAYER MAY GIVE THE
3 CALLER A CARD WITH INSTRUCTIONS ON THE CARD TO PLAY THAT
4 CARD AND ITS MARKED NUMBERS FOR UP TO THE NUMBER OF
5 SUCCESSIVE GAMES THAT THE HOUSE ALLOWS AND THAT THE PLAYER
6 HAS INDICATED ON THE CARD, UPON PAYMENT OF THE PRICE PER
7 GAME TIMES THE NUMBER OF SUCCESSIVE GAMES INDICATED. THE
8 PLAYER SHALL REMAIN ON THE HOUSE PREMISES UNTIL THE CARD IS
9 PLAYED OR WITHDRAWN. THE CALLER SHALL KEEP THE CARD UNTIL
10 THE END OF THE NUMBER OF GAMES INDICATED, AND THE DEPARTMENT
11 MAY BY RULE PROVIDE THAT AT THAT TIME THE CALLER SHALL PAY
12 THE PLAYER ANY PRIZES WON."

13 **Section 40.** Section 23-5-413, MCA, is amended to read:

14 "23-5-413. Raffle prizes restricted-----exemption --
15 PERMITS -- EXCEPTION. (1) Raffle prizes must-be-in--tangible
16 personal--property--only--and--not--in--money, cash, stocks,
17 bonds,--evidences--of--indebtedness,--or--other---intangible
18 personal--property--and must not exceed the value of \$1,000
19 for each individual raffle card ticket. It shall--be is
20 unlawful to, in any manner, combine any awards so as to
21 increase the ultimate value of such-award the prize awarded
22 for each ticket.

23 (2) A separate permit must be issued by the board of
24 county commissioners for each raffle conducted within its
25 jurisdiction. The permit must be issued before the raffle

may be conducted. A person who has conducted a raffle must submit an accounting to the board of county commissioners within 30 days following the completion of the raffle. The sale of raffle tickets authorized by this part is restricted to events and participants within the geographic confines of the state.

~~{2}{3}~~ (a) The restrictions of subsection (1) do not apply to a raffle conducted by a nonprofit corporation, religious corporation sole, or other nonprofit organization when if the corporation or organization is licensed permitted by the board of county commissioners to conduct the raffle. ~~A separate license shall be required for each raffle conducted.~~

(b) The nonprofit organization or corporation seeking ~~the license~~ permission under subsection ~~{2}{3}~~(a) must shall apply to the board of county commissioners for the license permit and must provide the following information:

(i) the cost and number of raffle tickets to be sold;

(ii) the charitable purposes the proceeds of the raffle are intended to benefit; and

(iii) the proposed prizes and their value.

(c) The proceeds from the sale of the raffle tickets ~~are to~~ may be used only for charitable purposes or to pay for prizes. The raffle prize must be in tangible personal property only and not in money, cash, stock, bonds, evidence

of indebtedness, or other intangible personal property. None of the proceeds may be used for the administrative cost of conducting the raffle.

~~{d}--The--corporation--or--organization--conducting--the--raffle--must--submit--an--accounting--to--the--board--of--county--commissioners--within--30--days--following--the--completion--of--the--raffle--The--person--or--persons--submitting--the--application--to--the--board--of--county--commissioners--along--with--the--corporation--or--organization--conducting--the--raffle--shall--be--responsible--for--submitting--the--accounting--to--the--board--of--county--commissioners--"~~

Section 41. Section 23-5-414, MCA, is amended to read:

23-5-414. Restrictions on bingo, and keno, ~~and~~ raffles ~~---bingo--or--keno--machines--in--establishment--limit---hours--of--operation---exception.~~ ~~{1}~~ In the playing of live bingo or keno, no a person who is not physically present on the premises where the game is actually conducted shall may not be allowed to participate as a player in the game.

~~{2}--Raffles---authorized---by---this---part--shall--be--restricted--to--events--and--participants--within--the--geographic--confines--of--the--state--of--Montana--"~~

~~{3}--No---establishment---may--receive--licenses--under--23-5-421--for--or--make--available--for--play--more--than--15--bingo--or--keno--machines--A--local--governing--body,--however,--may--restrict--the--number--of--licensed--machines--available--for--play~~

in an establishment to less than 15, but must allow at least 5.

(4) (a) Except as provided in subsection (4)(b), an establishment that receives a license to make a bingo or keno machine available for play must have the machine shut off each day during the hours provided in 16-3-304 for closure of licensed retail alcoholic beverage establishments.

(b) A local governing body may establish any hours of play for bingo or keno machines that it determines proper.

NEW SECTION. Section 42. Hours of play -- restrictions -- penalty. (1) A live bingo or keno game must be closed for play between the hours of 2 a.m. and 8 a.m. of each day. However, in the jurisdiction of a local government where the live bingo or keno game is played, the local government may adopt an ordinance defining other hours of play within that jurisdiction.

(2) A violation of this section is a misdemeanor punishable under (section 23). HOWEVER, IN THE JURISDICTION OF A LOCAL GOVERNMENT WHERE A GAME IS PLAYED, THE LOCAL GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2 A.M. AND 8 A.M.

Section 43. Section 23-5-431, MCA, is amended to read:

"23-5-431. Penalty Criminal penalty. Every A person who willfully purposely or knowingly violates or who

procures, aids, or abets in the willful a violation of this part or any ordinance, resolution, or regulation rule adopted pursuant thereto shall be deemed to this part is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000 or imprisonment in the county jail for not more than 3 months, or both punishable pursuant to [section 23]."

Section 44. Section 23-5-602, MCA, is amended to read:

"23-5-602. Definitions. As used in this part, the following definitions apply:

(1) "Associated equipment" means all proprietary devices, machines, or parts used in the manufacture or maintenance of a video draw poker gambling machine, including but not limited to integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitors, and metering devices, and cabinetry.

(2) "Department" means the department of commerce.

(2) "Bingo machine" means an electronic video gambling machine that, upon insertion of cash, is available to play bingo as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that

1 directly dispenses coins, cash, tokens, or anything else of
2 value.

3 (3) "Draw poker machine" means an electronic video
4 gambling machine that, upon insertion of cash, is available
5 to play or simulate the play of the game of draw poker, as
6 defined by rules of the department. The machine utilizes a
7 video display and microprocessors in which, by the skill of
8 the player, by chance, or both, the player may receive free
9 games or credits that may be redeemed for cash. The term
10 does not include a slot machine or a machine that directly
11 dispenses coins, cash, tokens, or anything else of value.

12 (3)(4) "Keno machine" means an electronic video game
13 gambling machine that, upon insertion of cash, is available
14 to play or simulate the play of the game of keno or bingo as
15 provided in part 4 of this chapter, utilizing defined by
16 rules of the department. The machine utilizes a video
17 display and microprocessors, in which, by the skill of the
18 player, or by chance, or both, the player may receive free
19 games or credits that can may be redeemed for cash. The term
20 does not include a slot machine or a machine that directly
21 dispenses coins, cash, tokens, or anything else of value.

22 (4) "Licensed establishment" means:

23 (a) with respect to the licensure of keno machines, an
24 establishment that is licensed to sell alcoholic beverages
25 for consumption on the premises or an establishment licensed

1 under 23-5-421, and

2 (b) with respect to the licensure of video draw poker
3 machines, an establishment that is licensed to sell
4 alcoholic beverages for consumption on the premises;

5 (5) "Licensee" means an individual, partnership,
6 corporation, or association that has been issued a license
7 by the department for the placement and operation of video
8 draw poker machines or keno machines in the licensed
9 establishment of the individual, partnership, corporation,
10 or association;

11 (6) "Manufacturer-distributor" means an individual,
12 partnership, corporation, or association that assembles,
13 produces, and makes or supplies video draw poker machines or
14 associated equipment for sale, use, or distribution in this
15 state;

16 (7)(5) "Net machine income" means money put into a
17 video draw poker or keno gambling machine minus credits paid
18 out in cash.

19 (8) "Used keno machine" means a keno machine, as that
20 term is defined in this section, that is owned or possessed
21 by an applicant on the day he applies for a license for the
22 used machine and that was owned or operated in the state
23 prior to June 30, 1987;

24 (9) "Used video draw poker machine" means a video draw
25 poker machine, as that term is defined in this section;

1 which--is--owned--or--possessed--by--an--applicant--on--the--day--he
2 applies--for--a--license--for--the--used--machine--and--which--was
3 owned--or--operated--in--the--state--prior--to--February--3,--1984.

4 {10}--"Video--draw--poker--machine"--means--an--electronic
5 video--game--machine--that,--upon--insertion--of--cash,--is
6 available--to--play--or--simulate--the--play--of--the--game--of--draw
7 poker,--as--provided--in--this--part,--utilizing--a--video--display
8 and--microprocessors--in--which,--by--the--skill--of--the--player--or
9 by--chance,--or--both,--the--player--may--receive--free--games--or
10 credits--that--can--be--redeemed--for--cash. The term does not
11 include--a--machine--that--directly--dispenses--coins,--cash,
12 tokens,--or--anything--else--of--value.

13 (6) "Video gambling machine manufacturer-distributor"
14 means a person who assembles, produces, makes, OR supplies,
15 or--repairs video gambling machines or associated equipment
16 for sale, use, or distribution in the state."

17 **Section 45.** Section 23-5-603, MCA, is amended to read:

18 "23-5-603. Video draw-poker-or-keno gambling machines
19 -- possession -- play -- hours-of-play-- restriction. (1)
20 No person may place an electronic video game machine that
21 simulates--or--offers--a--game--of--poker,--bingo,--or--keno--in--his
22 licensed establishment unless he is licensed under 23-5-612.
23 A person may only make available for public play ONLY the
24 NUMBER OF APPROVED video gambling machines specifically
25 authorized by this part.

1 (2) The video gambling machines specifically
2 authorized by this part are bingo, keno, and draw poker
3 machines. A person may not make available for public play a
4 video gambling machine unless he has obtained an operator's
5 license. Machines--licensed Only THE NUMBER OF APPROVED
6 machines for which permits have been granted under 23-5-612
7 are legal, and it is legal to play such machines, except
8 that a person under the age of 18 years may not play a video
9 draw-poker-or-keno machine may be made available for play by
10 the public on the premises of a licensed operator. THE
11 DEPARTMENT SHALL ADOPT RULES ALLOWING A VIDEO GAMBLING
12 MACHINE THAT NEEDS REPAIR TO BE TEMPORARILY REPLACED WHILE
13 IT IS BEING REPAIRED WITH A VIDEO GAMBLING MACHINE THAT IS
14 APPROVED UNDER THE PERMIT PROVISIONS OF THIS PART. A FEE
15 MAY NOT BE CHARGED FOR THE REPLACEMENT MACHINE.

16 {2}--Except--as--provided--in--subsection--{3},--an
17 establishment--that--receives--a--license--to--make--a--video--draw
18 poker machine available for play must have the machine shut
19 off--each--day--during--the--hours--provided--in--16-3-304--for
20 closure--of--licensed--retail--alcoholic--beverage
21 establishments.

22 {3}--A--local governing body may establish any hours of
23 play for video draw-poker machines that it determines
24 proper.

25 {4}--The provisions of part 3 of this chapter do not

1 apply--to--or--prohibit--video--draw--poker--or--keno--machines--or
2 the--playing--of--such--machines.

3 (3) MACHINES ON PREMISES LICENSED TO SELL ALCOHOLIC
4 BEVERAGES FOR CONSUMPTION ON THE PREMISES MUST BE PLACED IN
5 THE ROOM, AREA, OR OTHER PART OF THE PREMISES IN WHICH THE
6 ALCOHOLIC BEVERAGES ARE SOLD AND NORMALLY CONSUMED."

7 Section 46. Section 23-5-611, MCA, is amended to read:

8 "23-5-611. State-license Machine permit qualifications
9 -- limitations ---right-to-hearing. (1) (a) A person who has
10 been--granted--a--license--under--16-4-401(2)--to--sell--alcoholic
11 beverages--for--consumption--on--the--premises--may--be--granted--a
12 license--for--the--placement--of--video--draw--poker--machines--in
13 his--licensed--establishment. Only-a (A) A person who has been
14 granted an operator's license under [section 11] and a
15 license under 16-4-401(2) to sell alcoholic beverages for
16 consumption on the premises OR WHO OPERATES AN ESTABLISHMENT
17 FOR THE PRINCIPAL PURPOSE OF GAMING AND HAS BEEN GRANTED AN
18 OPERATOR'S LICENSE UNDER [SECTION 11] may be granted a
19 permit for the placement of video gambling machines in his
20 premises.

21 (b) A PERSON WHO HAS BEEN GRANTED AN OPERATOR'S
22 LICENSE UNDER [SECTION 11] AND IS NOT ENTITLED TO A PERMIT
23 UNDER SUBSECTION (1)(A) MAY BE GRANTED A PERMIT FOR THE
24 PLACEMENT OF UP TO TWO VIDEO KENO OR BINGO GAMBLING MACHINES
25 IN HIS PREMISES IF THE PREMISES HAVE BEEN LICENSED FOR THE

1 SALE--OF--FOOD, CIGARETTES, OR ANY OTHER CONSUMABLE PRODUCT
2 OTHER THAN LIQUOR OR BEER; IF ONLY ONE MACHINE IS ALLOWED
3 UNDER SUBSECTION (1)(E), ONE MORE MAY BE ALLOWED UNDER THIS
4 SUBSECTION (B):

5 (E)(B) IF VIDEO KENO OR BINGO GAMBLING MACHINES WERE
6 LEGALLY OPERATED ON A PREMISES ON JANUARY 15, 1989, AND THE
7 PREMISES WERE NOT ON THAT DATE LICENSED UNDER 16-4-401(2) TO
8 SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES OR
9 OPERATED FOR THE PRINCIPAL PURPOSE OF GAMING AND THERE IS AN
10 OPERATOR'S LICENSE FOR THE PREMISES UNDER [SECTION 11], A
11 PERMIT FOR THE SAME NUMBER OF VIDEO KENO OR BINGO GAMBLING
12 MACHINES AS WERE OPERATED ON THE PREMISES ON THAT DATE MAY
13 BE GRANTED TO THE PERSON WHO HELD THE PERMIT FOR SUCH
14 MACHINES ON THOSE PREMISES ON THAT DATE, TO AN ANCESTOR,
15 DESCENDANT, SIBLING, OR SPOUSE OF THAT PERSON, OR TO A
16 PERSON WHO PURCHASES OR LEASES THE BUSINESS THAT IS ON THE
17 PREMISES, IF THE BUSINESS IS MOVED TO ANOTHER PREMISES, THE
18 PERMITEE REMAINS ELIGIBLE FOR THE SAME NUMBER OF PERMITS.

19 (B)(C) A PERSON WHO LEGALLY OPERATED AN ESTABLISHMENT
20 ON JANUARY 15, 1989, FOR THE PRINCIPAL PURPOSE OF
21 GAMING AND HAS BEEN GRANTED AN OPERATOR'S LICENSE UNDER
22 [SECTION 11] MAY BE GRANTED A PERMIT FOR THE PLACEMENT OF
23 BINGO AND KENO MACHINES IN HIS PREMISES.

24 (b) Each applicant for a license shall on the
25 application form disclose to the department any previous

1 experience--or--involvement--as--an--owner--or--operator--of
2 gambling-devices-and-establishments--Previous-experience--or
3 involvement--includes:

4 (i)--controlling--of--gambling--devices--as--an--owner--or
5 operator;

6 (ii)--employment-with-the-owner-or-operator-of--gambling
7 devices;

8 (iii)--employment--in--establishments--where-gambling-is
9 offered-to-the-public; and

10 (iv)--conviction-of-violation-of-state-or-local-gambling
11 laws-in-any-jurisdiction.

12 (2) An applicant for a permit shall disclose on the
13 application form to the department any information required
14 by the department consistent with the provisions of [section
15 10].

16 (2)(3) A licensee may not have on the premises or make
17 available for play on the premises of--his---licensed
18 establishment more than five 20 10--KENO--AND--BINGO 20
19 machines of any combination that-are-legal-under--this--part
20 AND NO MORE THAN 10 MAY BE DRAW POKER MACHINES. In-the
21 jurisdiction-of-a--local-government--where--video--gambling
22 machines--are--played, the-local-government-may-by-ordinance
23 or-resolution-limit-the-number-of-video-gambling-machines-to
24 no-less-than-five-per-operator-premises; IN-THE-JURISDICTION
25 OF-A-LOCAL-GOVERNMENT--WHERE--VIDEO--GAMBLING--MACHINES--ARE

1 PLAYED, THE LOCAL GOVERNMENT MAY BY ORDINANCE OR RESOLUTION
2 LIMIT THE NUMBER OF VIDEO GAMBLING MACHINES TO NO LESS THAN
3 FIVE PER OPERATOR PREMISES AND NO MORE THAN ALLOWED BY THIS
4 SECTION.

5 (3) A person denied a state license has the right to a
6 hearing before the department. The hearing must be conducted
7 in accordance with the provisions of the Montana
8 Administrative Procedure Act."

9 Section 47. Section 23-5-612, MCA, is amended to read:

10 "23-5-612. State--license Machine permits -- fee --
11 used-keno-machines. (1) (a) The department, upon payment of
12 the fee provided in subsection (1)(b) (2) and in conformance
13 with rules adopted under 23-5-605 this part, shall issue to
14 the licensee operator a license permit for each AN APPROVED
15 video draw-poker-or-keno gambling machine.

16 (b)(2) The department shall charge an annual license
17 permit fee of \$100 \$200 for each video draw--poker--machine
18 and--\$100--for--each--keno gambling machine PERMIT. The
19 department shall retain \$100 of the total license permit fee
20 collected for purposes of administering this part--except
21 23-5-615. The remaining \$100 must be returned on a quarterly
22 basis to the local government jurisdiction in which the
23 gambling machine is located. THE LOCAL GOVERNMENT PORTION OF
24 THE FEE IS STATUTORILY APPROPRIATED TO THE DEPARTMENT, AS
25 PROVIDED IN 17-7-502, FOR DEPOSIT IN THE LOCAL GOVERNMENT

1 TREASURY.

2 (3) The license permit expires on June 30 of each
3 year, and the fee may not be prorated.

4 {2}--A---used---keno--machine--may--be--licensed--under
5 subsection-{1}--without-meeting-the-requirements-of--23-5-609
6 if---the--applicant--for--licensure--can--establish--to--the
7 satisfaction--of--the--department--that,--on--the--date---of
8 application,--he--owns-or-possesses-a-machine-that-was-owned
9 or-operated-in-the-state-prior-to-June-30,--1987---A--license
10 issued--under--this--subsection--expires-for-all-purposes-no
11 later-than-June-30,--1989.

12 (4) A USED KENO MACHINE MAY BE LICENSED UNDER
13 SUBSECTION (1) WITHOUT MEETING THE REQUIREMENTS OF 23-5-609
14 IF THE APPLICANT FOR LICENSURE CAN ESTABLISH TO THE
15 SATISFACTION OF THE DEPARTMENT THAT, ON THE DATE OF
16 APPLICATION, HE OWNS OR POSSESSES A MACHINE THAT WAS OWNED
17 OR OPERATED IN THE STATE PRIOR TO JUNE 30, 1987. A LICENSE
18 ISSUED UNDER THIS SUBSECTION EXPIRES FOR ALL PURPOSES NO
19 LATER THAN JUNE 30, 1989."

20 **Section 48.** Section 23-5-631, MCA, is amended to read:

21 "23-5-631. Examination and approval of new video draw
22 poker gambling machines and associated equipment -- fee. (1)
23 The department shall examine and may approve a new video
24 draw---poker---machines gambling machine and associated
25 equipment which is are manufactured, sold, or distributed

1 for use in this the state before the video draw-poker
2 gambling machine or associated equipment is sold, played, or
3 used.

4 (2) A video draw-poker gambling machine or associated
5 equipment may not be examined or approved by the department
6 until the video gambling machine manufacturer-distributor of
7 the-machine-or-associated-equipment is licensed as required
8 in 23-5-625.

9 (3) All video gambling machines approved by the
10 department of commerce prior to [the effective date of this
11 act] must be considered approved under this part.

12 {3}{4} The department shall require the
13 manufacturer-distributor seeking the examination and
14 approval of a new video draw--poker gambling machine or
15 associated equipment to pay the anticipated actual costs of
16 the examination in advance and, after the completion of the
17 examination, shall refund overpayments or charge and collect
18 amounts sufficient to reimburse the department for
19 underpayments of actual costs.

20 (5) The department may inspect and test and approve,
21 disapprove, or place a condition upon a video gambling
22 machine prior to its distribution and placement for play by
23 the public."

24 **NEW SECTION. Section 49.** Video gambling machine
25 specifications -- rules. The department shall adopt rules

describing the video gambling machines authorized by this part and stating the specifications for video gambling machines authorized by this part. THE SPECIFICATIONS IN THE RULES MUST SUBSTANTIALLY FOLLOW THE SPECIFICATIONS CONTAINED IN 23-5-606 AND 23-5-609 AS THOSE SECTIONS READ ON SEPTEMBER 30, 1989. THE DEPARTMENT SHALL ADOPT RULES ALLOWING VIDEO GAMBLING MACHINES TO BE IMPORTED INTO THIS STATE AND USED FOR THE PURPOSES OF TRADE SHOWS, EXHIBITIONS, AND SIMILAR ACTIVITIES.

Section 50. Section 23-5-616, MCA, is amended to read:

"23-5-616. Removal of machine from public access. If a machine fails to meet the specifications and requirements of 23-5-606, 23-5-607, or 23-5-608 this part or any rule of the department WHICH SPECIFICATION OR REQUIREMENT EXISTED AT THE TIME THE MACHINE WAS APPROVED at any time after its initial licensure permit has been issued, the licensee operator shall immediately remove the machine from public access until it meets all requirements."

Section 51. Section 23-5-625, MCA, is amended to read:

"23-5-625. Manufacturer-distributor--of---video---draw poker-----machines Video gambling machine manufacturer-distributor -- license -- fees. (1) It is unlawful for any person to assemble, produce, manufacture, sell, or distribute OR supply--or--repair any video draw poker gambling machine or associated equipment for use or

play in this the state without having first been issued a video gambling machine manufacturer-distributor's license by the department.

(2) The department shall charge an annual license fee of \$1,000 for the issuance or renewal of a video gambling machine manufacturer-distributor's license.

(3) In addition to other license fees, the department may charge the applicant a one-time video gambling machine manufacturer-distributor's license application processing fee. The processing fee may not exceed the department's actual costs for processing an application.

(4) All video gambling machine manufacturer-distributor's licenses expire on June 30 of each year, and the license fee may not be prorated.

(5) The department shall retain the license and processing fees collected for purposes of administering this part, except-23-5-615 unless otherwise provided."

Section 52. Section 23-5-610, MCA, is amended to read:

"23-5-610. Video draw-poker-and-keno gambling machine net income tax -- records -- distribution -- quarterly statement and payment. (1) Each A licensee AN OPERATOR ISSUED A PERMIT UNDER THIS PART shall pay to the department a video draw-poker-and-keno gambling machine tax of 15% of net machine income from each video draw-poker-and-keno gambling machine licensed under this part.

(2) Each A licensee AN OPERATOR ISSUED A PERMIT UNDER THIS PART shall keep a record of net machine income in such form as the department may require. The records must at all times during the business hours of the licensee be subject to inspection by the department--its-agents--or--employees.

(3) Each A licensee AN OPERATOR ISSUED A PERMIT UNDER THIS PART shall, within 15 days after the end of each quarter, complete and deliver to the department a statement showing the total net machine income from each video draw poker--and--keno gambling machine licensed to him, together with the total amount due the state as video draw-poker--and keno gambling machine net income tax for the preceding quarter. The statement must contain such other relevant information as the department may require.

(4) (a) The department must--deposit shall forward one-third of the tax collected under subsection (3) in to the general fund.

(b) The department must shall forward the remaining two-thirds of the tax collected under subsection (3) to the treasurer of the incorporated county or the clerk, finance officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the county or municipal treasury. Counties are not entitled to proceeds from taxes on income from video draw-poker-and-keno gambling machines located in incorporated cities and towns. The

two-thirds local government portion of tax collected under subsection (3) is statutorily appropriated to the department as provided in 17-7-502 for deposit to the county or municipal treasury."

Section 53. Section 23-5-608, MCA, is amended to read:

"23-5-608. Limitation on amount of money played and value of prizes -- payment of credits in cash. (1) A video draw-poker-or-keno gambling machine may not allow more than \$2 to be played on a game or award free games or credits in excess of the value-of-\$100-per-hand following amounts:

(a) \$100 a-hand-or-\$800 \$800 \$100 a game for a video draw poker machine; and

(b) \$800 a game for a video keno or bingo machine.

(2) Each A licensee shall pay in cash all credits owed to a player as shown on a valid ticket voucher provided-in 23-5-606(4)(k)."

Section 54. Section 23-5-607, MCA, is amended to read:

"23-5-607. Expected payback -- verification. The department shall prescribe the expected payback value of one credit played awarded to be at least 80% of the value of a one credit played. Each video draw-poker-or--keno gambling machine must have an electronic accounting device that the department may use to verify the winning percentage. The department--may--not-publish-or-otherwise-disseminate-income figures--and--other--statistics--obtained--in--the--payback

1 verification--process--or--contained-in-payback-verification
2 reports-in-a-manner--that--allows-or--helps--a-person--to
3 identify--a-particular-machine--or--to--match-a-particular
4 machine-with-a-particular-income-or-statistic."

5 NEW SECTION. Section 55. Video gambling machines --
6 hours of play ---penalty. {1} A video gambling machine may
7 not be played between the hours of 2 a.m. and 8 a.m. each
8 day. However,--in--the--jurisdiction--of--a-local-government
9 where-the--video--gambling--machine--is--played,--the--local
10 government-may-adopt-an-ordinance-defining-the-hours-of-play
11 within-that-jurisdiction.

12 {2}--A-violation--of--this--section--is--a-misdemeanor
13 punishable-under-{section-23}. HOWEVER, IN THE JURISDICTION
14 OF A LOCAL GOVERNMENT WHERE A GAME IS PLAYED, THE LOCAL
15 GOVERNMENT MAY ADOPT AN ORDINANCE ALLOWING PLAY BETWEEN 2
16 A.M. AND 8 A.M.

17 **Section 56.** Section 23-5-613, MCA, is amended to read:

18 "23-5-613. Investigations--and--violations Violations.
19 {1}--The--department--or--duly--authorized--department
20 representatives-shall-make-necessary-investigations,--suspend
21 or-revoke-state-licenses-for-violations-of-this-part,--except
22 23-5-615,--and--hold-hearings-on-such-matters. A-license-may
23 be-suspended-prior-to-a-hearing-upon-a-finding-of-danger--to
24 public-health--and-welfare-but-may-not-be-revoked-until-the
25 hearing-is-completed.

1 {2}--A Unless otherwise provided in this part, A PERSON
2 WHO PURPOSELY OR KNOWINGLY VIOLATES OR PROCURES, AIDS, OR
3 ABETS a violation of this part,--except-23-5-615, or-a-rule
4 promulgated under--23-5-605 by--the--department OR AN
5 ORDINANCE, RESOLUTION, OR RULE ADOPTED UNDER THIS PART is
6 GUILTY OF a criminal-offense,--and--a--fine--not--to--exceed
7 \$10,000-for-the-first-violation-and-\$15,000-for-a-subsequent
8 violation--must--be--imposed misdemeanor punishable under
9 [section 23].

10 {3}--If-a-video--draw-poker--machine--is--operated--in
11 violation--of--this--part,--except-23-5-615,--it-may-be-seized
12 under-23-5-121-and-the-provisions-of-23-5-122-apply.

13 {4}--Employees-of-the--department--or--duly--authorized
14 department--representatives-designated-as-enforcement-agents
15 may-investigate-the-background-of-license-applicants-to--the
16 extent-judged-necessary-by-the-department,--but-no-person-may
17 be--investigated--prior--to-his-submission-of-an-application
18 for-a-license.

19 {5}--(a)-Findings-of-suspected-illegal-activity-must-be
20 reported-to-the-appropriate-law-enforcement-agency.

21 (b)--The-clerk-of-the-court-shall,--upon-final--judgment
22 of--conviction--of--a-licensee,--report-to-the-department-the
23 name-of-the-licensee-convicted-of-violating-a-local-gambling
24 ordinance.

25 (c)--On-receipt-of--such--report,--the--department--may

commence--proceedings--to--revoke--or--suspend--the--licensee's
video-draw-poker-license;

(6)--Any--peace-officer--of--this--state--may--arrest--a
person--for--tampering--with--a--video--draw--poker--machine,
attempting--or--conspiring--to--manipulate--the--outcome--or--the
payoff--of--a--video--draw--poker--machine,--or--manipulating--the
outcome--or--payoff--of--a--video--draw--poker--machine--by--physical
tampering--or--other--interference--with--the--proper--functioning
of--the--machine;"

NEW SECTION. Section 57. Tampering with or
manipulating video gambling machine -- penalty. (1) it-is-a
felony-to A PERSON COMMITS THE OFFENSE OF TAMPERING WITH A
VIDEO GAMBLING MACHINE IF HE PURPOSELY OR KNOWINGLY
manipulate MANIPULATES or attempt ATTEMPTS or conspire
CONSPIRES to manipulate the outcome or payoff of a video
gambling machine by physical tampering or other interference
with the proper functioning of the machine.

(2) A violation of this section is a felony and must
be punished in accordance with [section 24].

Section 58. Section 23-5-503, MCA, is amended to read:

"23-5-503. Rules. (1) The card used for recording the
pool and upon which the squares or spaces appear shall
clearly state indicate in advance of the sale of any chances
the number of chances to be sold in that specific pool, the
name of the event, the consideration to be paid for each

chance, and the total amount to be paid to the winners.

(2) No A chance to participate in a sports pool may
not be sold other than upon the premises in which the sports
pool is conducted. No An individual chance to participate in
a sports pool shall may not be sold for a consideration in
excess of \$1 \$10 \$1 \$5, and the total amount to be paid to
the winners of any individual sports pool shall may not
exceed the value of \$100 \$500. The winner of any sports pool
shall receive a 100% payout of the value of the sports
pool."

Section 59. Section 23-5-509, MCA, is amended to read:

"23-5-509. Penalty. Every A person who willfully
purposely or knowingly violates or who procures, aids, or
abets in the-willful a violation of this part shall-be
deemed is guilty of a misdemeanor and-upon-conviction-shall
be-punished-by-a-fine-of-not-more-than-\$1,000-or
imprisonment-in-the-county-jail-for-not-more-than-3-months,
or-both punishable pursuant to [section 23]."

Section 60. Section 23-5-1101, MCA, is amended to
read:

"23-5-1101. Definition. As used in this part,
"Calcutta pool" means a form of auction pool in-which
persons-bid-or-wager-money-with-winnings-awarded-based-on
the-outcome-of-an-event--except-that conducted by an
organization qualified-for-exception-under-26--U.S.C.

1 501(c)(3)-or-(c)(4)-and authorized by the department. The
 2 Calcutta pool must be an auction pool in which:

3 (1) a person's wager is equal to his bid;
 4 (2) the organization conducting the pool has no direct
 5 interest in the pool;

6 (2) THE PROCEEDS FROM THE POOL, MINUS ADMINISTRATIVE
 7 COSTS AND PRIZES PAID, ARE CONTRIBUTED TO A CHARITABLE OR
 8 NONPROFIT CORPORATION, ASSOCIATION, OR CAUSE;

9 (3) the rules of the pool are publicly posted;

10 (4) no more than one wager for each competitor is
 11 allowed;

12 (5) at least 50% of the total pool is paid out in
 13 prizes;

14 (6) persons may not bid or wager money on any
 15 elementary school or high school sports event; and

16 (7) the underlying event has more than two entrants."

17 **Section 61.** Section 23-5-1105, MCA, is amended to
 18 read:

19 "23-5-1105. Penalty. Any A person who violates a
 20 provision of this part is guilty of a misdemeanor and upon
 21 conviction shall be fined not more than \$1,000 or imprisoned
 22 in the county jail for a term not to exceed 3 months, or
 23 both punishable pursuant to [section 23]."

24 **Section 63.** Section 17-7-502, MCA, is amended to read:

25 "17-7-502. Statutory appropriations----definition---

1 requisites for validity. (1) A statutory appropriation is
 2 an appropriation made by permanent law that authorizes
 3 spending by a state agency without the need for a biennial
 4 legislative appropriation or budget amendment;

5 (2) Except as provided in subsection (4), to be
 6 effective, a statutory appropriation must comply with both
 7 of the following provisions:

8 (a) The law containing the statutory authority must be
 9 listed in subsection (3);

10 (b) The law or portion of the law making a statutory
 11 appropriation must specifically state that a statutory
 12 appropriation is made as provided in this section;

13 (3) The following laws are the only laws containing
 14 statutory appropriations: 2-9-202, 2-17-105, 2-18-012,
 15 10-3-203, 10-3-312, 10-3-314, 10-4-301, 13-37-304,
 16 15-25-123, 15-31-702, 15-36-112, 15-65-121, 15-70-101,
 17 16-1-404, 16-1-410, 16-1-411, 17-3-212, 17-5-404, 17-5-424,
 18 17-5-804, 19-8-504, 19-9-702, 19-9-1007, 19-10-205,
 19 19-10-305, 19-10-506, 19-11-512, 19-11-513, 19-11-606,
 20 19-12-301, 19-13-604, 20-4-109, 20-6-406, 20-8-111,
 21 23-5-610, [section 29], [section 39], 23-5-1027, 33-31-212,
 22 33-31-401, 37-51-501, 39-71-2504, 53-6-150, 53-24-206,
 23 67-3-205, 75-1-1101, 75-7-305, 76-12-123, 80-2-103,
 24 80-2-228, 82-11-136, 90-3-301, 90-3-302, 90-3-412, 90-4-215,
 25 90-9-306, 90-15-103, section 13, House Bill No. 061, laws of

1 1985, and section 1, Chapter 454, Laws of 1987;
 2 {4}--There is a statutory appropriation to pay the
 3 principal, interest, premiums, and costs of issuing, paying,
 4 and securing all bonds, notes, or other obligations, as due,
 5 that have been authorized and issued pursuant to the laws of
 6 Montana---Agencies---that---have---entered---into---agreements
 7 authorized--by--the--laws--of--Montana--to--pay--the---state
 8 treasurer,--for--deposit--in--accordance--with--17-2-101 through
 9 17-2-107, as determined by the state treasurer, an amount
 10 sufficient--to--pay--the--principal--and--interest--as--due--on--the
 11 bonds--or--notes--have--statutory--appropriation--authority--for
 12 such--payments:--{In subsection {3}:--pursuant to sec--15--Ch--
 13 607,--b--1987, the inclusion of 15-65-121 terminates June 30,
 14 1989,--pursuant--to--sec--10,--Ch--664,--b--1987, the inclusion
 15 of 39-71-2504 terminates June 30, 1991, and pursuant to sec--
 16 67--Ch--454,--b--1987, the inclusion of sec--17--Ch--454,--b--
 17 1987, terminates July 1, 1988.}"

18 **SECTION 62.** SECTION 17-7-502, MCA, IS AMENDED TO READ:

19 "17-7-502. Statutory appropriations -- definition --
 20 requisites for validity. (1) A statutory appropriation is an
 21 appropriation made by permanent law that authorizes spending
 22 by a state agency without the need for a biennial
 23 legislative appropriation or budget amendment.

24 (2) Except as provided in subsection (4), to be
 25 effective, a statutory appropriation must comply with both

1 of the following provisions:

2 (a) The law containing the statutory authority must be
 3 listed in subsection (3).

4 (b) The law or portion of the law making a statutory
 5 appropriation must specifically state that a statutory
 6 appropriation is made as provided in this section.

7 (3) The following laws are the only laws containing
 8 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
 9 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;
 10 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101;
 11 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;
 12 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205;
 13 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606;
 14 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111;
 15 23-5-610; 23-5-612; [section 29]; [section 38]; 23-5-1027;
 16 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150;
 17 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123;
 18 80-2-103; 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412;
 19 90-4-215; 90-9-306; 90-15-103; section 13, House Bill No.
 20 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987.

21 (4) There is a statutory appropriation to pay the
 22 principal, interest, premiums, and costs of issuing, paying,
 23 and securing all bonds, notes, or other obligations, as due,
 24 that have been authorized and issued pursuant to the laws of
 25 Montana. Agencies that have entered into agreements

1 authorized by the laws of Montana to pay the state
 2 treasurer, for deposit in accordance with 17-2-101 through
 3 17-2-107, as determined by the state treasurer, an amount
 4 sufficient to pay the principal and interest as due on the
 5 bonds or notes have statutory appropriation authority for
 6 such payments. (In subsection (3): pursuant to sec. 15, Ch.
 7 607, L. 1987, the inclusion of 15-65-121 terminates June 30,
 8 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion
 9 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.
 10 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.
 11 1987, terminates July 1, 1988.)"

12 NEW SECTION. SECTION 63. EXEMPTION FROM SUNRISE
 13 PROVISIONS. THE PROVISIONS OF TITLE 2, CHAPTER 8, PART 2,
 14 AND 5-4-207 DO NOT APPLY TO [THIS ACT].

15 NEW SECTION. SECTION 64. GAMING ADVISORY COUNCIL --
 16 ALLOCATION -- COMPOSITION -- COMPENSATION -- ANNUAL REPORT.

17 (1) THERE IS A GAMING ADVISORY COUNCIL.

18 (2) THE GAMING ADVISORY COUNCIL IS ALLOCATED TO THE
 19 DEPARTMENT FOR ADMINISTRATIVE PURPOSES ONLY AS PRESCRIBED IN
 20 2-15-121.

21 (3) THE GAMING ADVISORY COUNCIL CONSISTS OF NINE
 22 MEMBERS. ONE MEMBER MUST BE FROM THE SENATE, AND ONE MEMBER
 23 MUST BE FROM THE HOUSE OF REPRESENTATIVES. THE SENATE
 24 COMMITTEE ON COMMITTEES AND THE SPEAKER OF THE HOUSE OF
 25 REPRESENTATIVES SHALL APPOINT THE LEGISLATIVE MEMBERS OF THE

1 COUNCIL. THE SEVEN REMAINING MEMBERS MUST BE APPOINTED BY
 2 THE DEPARTMENT, WITH TWO ONE REPRESENTING THE PUBLIC AT
 3 LARGE, TWO REPRESENTING LOCAL GOVERNMENTS, ONE BEING A
 4 NATIVE AMERICAN, AND THREE REPRESENTING THE GAMING INDUSTRY.

5 (4) EACH GAMING ADVISORY COUNCIL MEMBER IS APPOINTED
 6 TO A 2-YEAR 3-YEAR TERM OF OFFICE, EXCEPT THAT THREE OF THE
 7 FIRST-APPOINTED ORIGINAL MEMBERS SHALL SERVE A 1-YEAR TERM,
 8 THREE (INCLUDING BOTH LEGISLATIVE MEMBERS) SHALL SERVE A
 9 2-YEAR TERM, AND THREE SHALL SERVE A 3-YEAR TERM. A MEMBER
 10 OF THE COUNCIL MAY BE REMOVED FOR GOOD CAUSE BY THE
 11 APPOINTING BODY PROVIDED FOR IN SUBSECTION (3).

12 (5) THE GAMING ADVISORY COUNCIL SHALL APPOINT A
 13 CHAIRMAN FROM ITS MEMBERS.

14 (6) LEGISLATIVE MEMBERS OF THE GAMING ADVISORY COUNCIL
 15 ARE ENTITLED TO COMPENSATION AND EXPENSES, AS PROVIDED IN
 16 5-2-302, WHILE THE COUNCIL IS MEETING. THE REMAINING MEMBERS
 17 ARE ENTITLED TO TRAVEL, MEALS, AND LODGING EXPENSES AS
 18 PROVIDED FOR IN 2-18-501 THROUGH 2-18-503. EXPENSES OF THE
 19 COUNCIL MUST BE PAID FROM LICENSING FEES RECEIVED BY THE
 20 DEPARTMENT.

21 (7) THE GAMING ADVISORY COUNCIL SHALL, WITHIN ITS
 22 AUTHORIZED BUDGET, HOLD MEETINGS AND INCUR EXPENSES AS IT
 23 CONSIDERS NECESSARY TO STUDY ALL ASPECTS OF GAMBLING IN THE
 24 STATE.

25 (8) (A) THE GAMING ADVISORY COUNCIL SHALL SUBMIT AN

1 ANNUAL REPORT TO THE DEPARTMENT, AT A TIME DESIGNATED BY THE
 2 DEPARTMENT, WITH RECOMMENDATIONS FOR AMENDMENTS TO THE
 3 GAMBLING STATUTES, THE NEED FOR ADDITIONAL OR MODIFIED
 4 DEPARTMENT RULES, THE CLARIFICATION OF EXISTING RULES, AND
 5 OTHER RECOMMENDATIONS ON THE OPERATION OF THE DEPARTMENT OR
 6 ANY OTHER GAMBLING-RELATED MATTER.

7 (B) THE ANNUAL REPORT REQUIRED UNDER SUBSECTION (8)(A)
 8 MUST BE AFFIXED TO THE ANNUAL DEPARTMENT REPORT ON GAMBLING
 9 IN THE STATE. THE DEPARTMENT AND COUNCIL SHALL SUBMIT THE
 10 TWO MOST RECENT DEPARTMENT AND COUNCIL REPORTS TO EACH OF
 11 THE NEXT TWO REGULAR SESSIONS OF THE LEGISLATURE.

12 (C) THE COUNCIL MAY SUBMIT INTERIM REPORTS TO THE
 13 DEPARTMENT AS THE COUNCIL CONSIDERS NECESSARY.

14 (D) THE COUNCIL SHALL MEET WITH THE DEPARTMENT UPON
 15 REQUEST OF THE DEPARTMENT.

16 (E) THE DEPARTMENT SHALL MEET WITH THE COUNCIL UPON
 17 REQUEST OF THE COUNCIL.

18 (9) THE DEPARTMENT SHALL GIVE EACH COUNCIL MEMBER
 19 NOTICE AND A COPY OF EACH PROPOSED CHANGE IN ADMINISTRATIVE
 20 RULES RELATING TO GAMBLING. THE NOTICE AND COPY MUST BE
 21 GIVEN AT THE TIME A NOTICE OF PROPOSED RULES CHANGES IS
 22 FILED WITH THE SECRETARY OF STATE. THE COUNCIL SHALL REVIEW
 23 THE PROPOSAL, MAY COMMENT ON IT, AND MAY ATTEND ANY HEARING
 24 ON THE PROPOSAL. THE DEPARTMENT SHALL CONSIDER ANY COMMENT
 25 BY ANY COUNCIL MEMBER OR BY THE COUNCIL AS A WHOLE PRIOR TO

1 ADOPTING THE PROPOSED CHANGE.

2 NEW SECTION. SECTION 65. CONSTRUCTION. IN VIEW OF
 3 ARTICLE III, SECTION 9, OF THE MONTANA CONSTITUTION, [THIS
 4 ACT] MUST BE STRICTLY CONSTRUED BY THE DEPARTMENT AND THE
 5 COURTS TO ALLOW ONLY THOSE TYPES OF GAMBLING AND GAMBLING
 6 ACTIVITY THAT ARE SPECIFICALLY AND CLEARLY ALLOWED BY [THIS
 7 ACT].

8 NEW SECTION. Section 66. Reorganization procedure.
 9 The provisions of sections 2-15-131 through 2-15-137 govern
 10 the transfer of the various functions contained in [this
 11 act] from the department of commerce AND THE DEPARTMENT OF
 12 REVENUE to the department of justice.

13 NEW SECTION. Section 67. Implementation. (1) The
 14 governor shall by executive order implement the provisions
 15 of [this act].

16 (2) The governor may by executive order assign to the
 17 department of justice in a manner consistent with [this act]
 18 functions allocated to the department of commerce AND THE
 19 DEPARTMENT OF REVENUE by the 51st legislature relating to
 20 the implementation of Title 23, chapter 5, parts 1 through
 21 6, that are not transferred by [this act].

22 NEW SECTION. Section 68. Repealer. Sections 23-5-105
 23 through 23-5-107, 23-5-109, 23-5-121, 23-5-122, 23-5-124
 24 through 23-5-127, 23-5-132 through 23-5-134, 23-5-141
 25 through 23-5-144, 23-5-201 through 23-5-211, 23-5-301

through 23-5-303, 23-5-314 through 23-5-316, 23-5-322, 23-5-323, 23-5-332, 23-5-401 through 23-5-403, 23-5-411, 23-5-415 through 23-5-418, 23-5-421 through 23-5-423, 23-5-504 through 23-5-508, 23-5-510, 23-5-511, 23-5-601, 23-5-605, 23-5-606, 23-5-609, 23-5-615, 23-5-617, 23-5-618, 23-5-626, 23-5-627, 23-5-635, 23-5-636, 23-5-1103, 23-5-1104, MCA, are repealed.

NEW SECTION. SECTION 69. PRORATION OF CERTAIN FEES.

A FEE IMPOSED UNDER 23-5-321, 23-5-421, 23-5-612, 23-5-625, OR 23-5-631 BETWEEN [THE EFFECTIVE DATE OF THIS SECTION] AND OCTOBER 1, 1989, MUST BE PRORATED TO COVER ONLY THE PERIOD BETWEEN THE DATE THE PERMIT OR LICENSE TAKES EFFECT AND OCTOBER 1, 1989.

NEW SECTION. SECTION 70. APPROPRIATION. THE

FOLLOWING APPROPRIATION IS MADE FROM A STATE SPECIAL REVENUE ACCOUNT TO THE DEPARTMENT OF JUSTICE FOR THE PURPOSE OF IMPLEMENTING [THIS ACT] AND ADMINISTERING CHAPTER 5 OF TITLE 23:

<u>FISCAL YEAR BEGINNING JULY 1, 1989</u>	<u>\$527,081</u>
---	------------------

<u>FISCAL YEAR BEGINNING JULY 1, 1990</u>	<u>\$449,081</u>
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NEW SECTION. Section 71. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 72. Codification instruction.

(1) [Sections 1, 2, 4 through 8, 10 through 12, 16, 18 through 20, and 23 through 25] are intended to be codified as an integral part of Title 23, chapter 5, part 1, and the provisions of Title 23, chapter 5, part 1, apply to [sections 1, 2, 4 through 8, 10 through 12, 16, 18 through 20, and 23 through 25].

(2) [Sections 27 through 29 and 32] are intended to be codified as an integral part of Title 23, chapter 5, part 3, and the provisions of Title 23, chapter 5, part 3, apply to [sections 27 through 29 and 32].

(3) [Sections 35 through 39 38 and 43 42] are intended to be codified as an integral part of Title 23, chapter 5, part 4, and the provisions of Title 23, chapter 5, part 4, apply to [sections 35 through 39 38 and 43 42].

(4) [Sections 50 49, 56 55, and 50 57] are intended to be codified as an integral part of Title 23, chapter 5, part 6, and the provisions of Title 23, chapter 5, part 6, apply to [sections 50 49, 56 55, and 50 57].

(5) The code commissioner shall recodify the provisions of Title 23, chapter 5, part 11, as an integral part of Title 23, chapter 5, part 2.

(6) [SECTION 64] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 2, CHAPTER 15, PART 20, AND THE PROVISIONS OF TITLE 2, CHAPTER 15, APPLY TO [SECTION 64].

NEW SECTION. SECTION 73. COORDINATION INSTRUCTION.

1 (1) THE REFERENCE COPY OF HOUSE BILL NO. 576 OF THE 51ST
2 LEGISLATURE IS AMENDED TO INSERT, ON PAGE 2, LINE 9, AFTER
3 "23-5-609(4)(L)", THE PHRASE ", AS THAT SECTION READ ON
4 SEPTEMBER 30, 1989".

5 (2) THE REFERENCE COPY OF HOUSE BILL NO. 251 OF THE
6 51ST LEGISLATURE IS AMENDED TO CHANGE "LICENSE" TO "PERMIT"
7 ON PAGE 2, LINES 2 AND 13.

8 (3) THE REFERENCE COPY OF HOUSE BILL NO. 448 OF THE
9 51ST LEGISLATURE IS AMENDED TO DELETE THE AMENDMENTS MADE TO
10 23-5-104(1). SUBSECTION (1) OF 23-5-104 AND THE FIRST
11 SENTENCE OF 23-5-104(2) ARE DELETED, AS PROVIDED IN [SECTION
12 22], AND THE AMENDMENTS TO THE REMAINDER OF 23-5-104 BY
13 [SECTION 22] AND HOUSE BILL NO. 448 TAKE EFFECT.

14 NEW SECTION. Section 74. Severability. If a part of
15 [this act] is invalid, all valid parts that are severable
16 from the invalid part remain in effect. If a part of [this
17 act] is invalid in one or more of its applications, the part
18 remains in effect in all valid applications that are
19 severable from the invalid applications.

20 NEW SECTION. SECTION 75. EFFECTIVE DATES. (1)
21 [SUBSECTION (2) OF SECTION 7 AND SECTIONS 63 THROUGH 67, 69,
22 72, 73, AND THIS SECTION] ARE EFFECTIVE ON PASSAGE AND
23 APPROVAL.

24 (2) [SECTION 70] IS EFFECTIVE ON JULY 1, 1989.

25 (3) THE REMAINING SECTIONS ARE EFFECTIVE ON OCTOBER 1,

1 1989.

-End-